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95-2  
95th Congress }  
2d Session }

COMMITTEE PRINT

{ COMMITTEE  
PRINT 95-38

COMPILATION OF SELECTED ACTS WITHIN  
THE JURISDICTION OF THE COMMITTEE  
ON INTERSTATE AND FOREIGN  
COMMERCE

VOLUME I  
HEALTH LAW  
INCLUDING

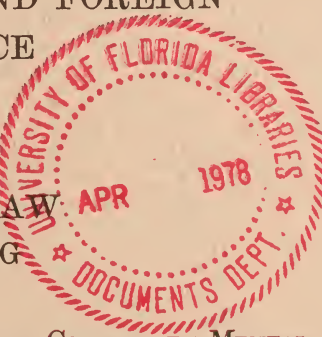
PUBLIC HEALTH SERVICE ACT  
MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL  
HEALTH CENTERS CONSTRUCTION ACT OF 1963  
COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVEN-  
TION, TREATMENT, AND REHABILITATION ACT OF 1970  
DRUG ABUSE OFFICE AND TREATMENT ACT OF 1972

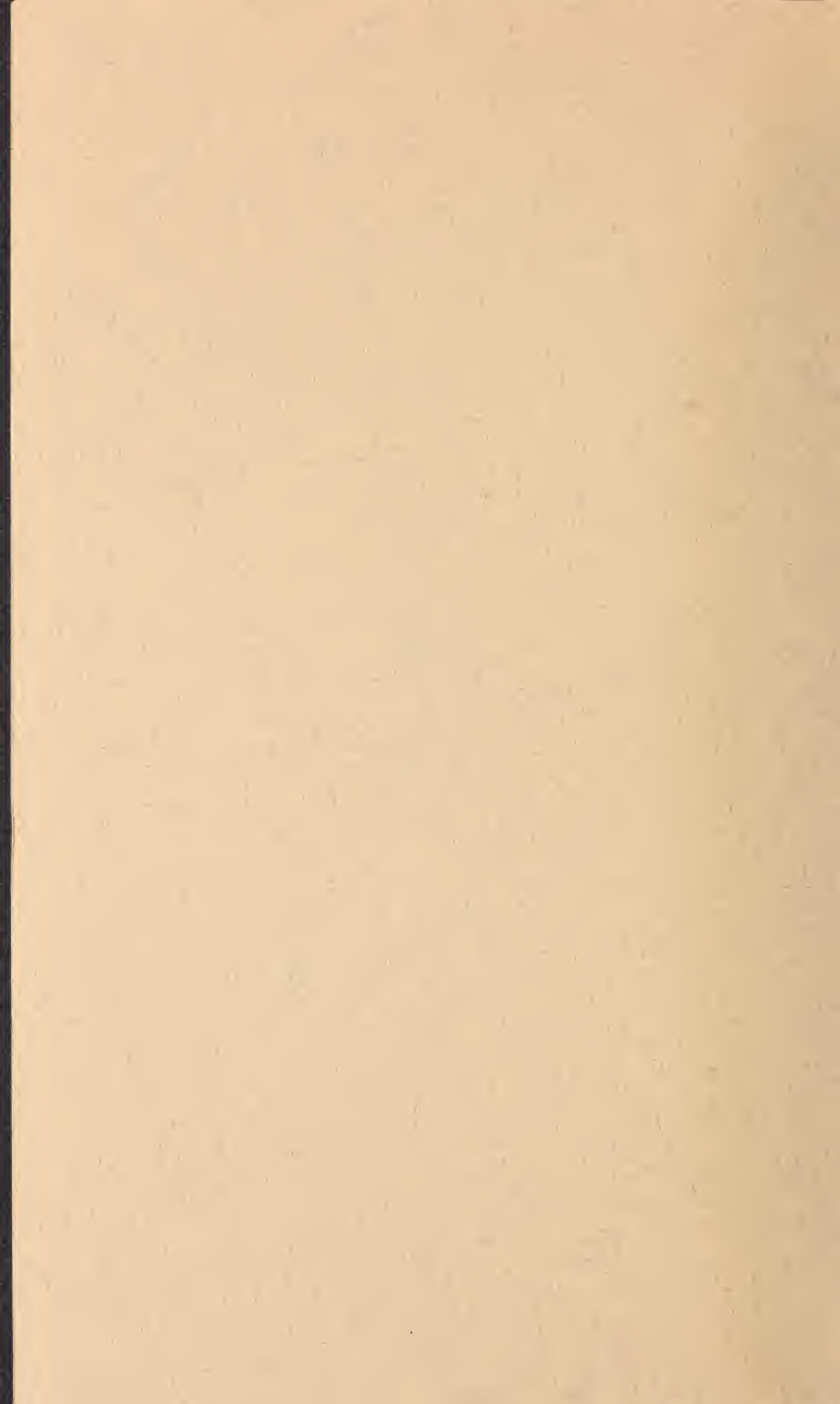
PREPARED FOR THE USE OF THE  
HOUSE COMMITTEE ON INTERSTATE AND  
FOREIGN COMMERCE



1978

Printed for the use of the  
House Committee on Interstate and Foreign Commerce







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U.S. GOVERNMENT PRINTING OFFICE  
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# CONTENTS

(The same table of contents appears in volumes I, II, III, and IV)

## VOLUME I—HEALTH LAW

	Section	Page
Public Health Service Act:		
Title I—Short Title and Definitions.....	1	3
Title II—Administration.....	201	5
Title III—General Powers and Duties of Public Health Service:		
Part A—Research and Investigation.....	301	34
Part B—Federal-State Cooperation.....	311	49
Part C—Hospitals, Medical Examinations, and Medical Care.....	321	81
Part D—Lepers.....	331	104
Part E—Narcotic Addicts and Other Drug Abusers.....	341	105
Part F—Licensing—Biological Products and Clinical Laboratories and Control of Radiation.....	351	112
Part G—Quarantine and Inspection.....	361	135
Part H—Grants to Alaska for Mental Health.....	371	114
Part I—National Library of Medicine.....	381	142
Part J—Assistance to Medical Libraries.....	390	145
Part K—Quality Assurance.....	399A	152
Title IV—National Research Institutes:		
Part A—National Cancer Institute.....	401	153
Part B—National Heart, Lung, and Blood Institute.....	411	163
Part C—National Institute of Dental Research.....	421	174
Part D—National Institute on Arthritis, Rheumatism, and Metabolic Diseases, National Institute of Neurological Diseases and Stroke, and Other Institutes.....	431	176
Part E—Institutes of Child Health and Human Development and of General Medical Sciences.....	441	191
Part F—National Eye Institute.....	451	193
Part G—National Institute of Mental Health.....	455	194
Part H—National Institute on Aging.....	461	194
Part I—General Provisions.....	471	196
Title V—Miscellaneous.....	501	204
Title VI—Assistance for Construction and Modernization of Hospitals and Other Medical Facilities:		
Declaration of Purpose.....	600	209
Part A—Grants and Loans for Construction and Modernization of Hospitals and Other Medical Facilities.....	601	209
Part B—Loan Guarantees and Loans for Modernization and Construction of Hospitals and Other Medical Facilities.....	621	224
Part C—Construction or Modernization of Emergency Rooms.....	631	231
Part D—General.....	641	232
Title VII—Health Research and Teaching Facilities and Training of Professional Health Personnel:		
Part A—General Provisions.....	700	241
Part B—Grants and Loan Guarantees and Interest Subsidies for Construction of Teaching Facilities for Medical, Dental, and Other Health Personnel.....	720	250
Part C—Student Assistance.....	727	262

# IV

## Public Health Service Act—Continued

Title VII—Health Research and Teaching Facilities and Training of Professional Health Personnel—Continued		
Part D—Grants To Provide Professional and Technical Training in the Field of Family Medicine	Section 761	Page 295
Part E—Grants To Improve the Quality of Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry	770	305
Part F—Grants and Contracts for Programs and Projects	780	320
Part G—Programs for Personnel in Health Administration and in Allied Health	791	336
Title VIII—Nurse Training:		
Part A—Assistance for Expansion and Improvement of Nurse Training	801	345
Part B—Assistance to Nursing Students	830	360
Part C—General	851	370
Title IX—Education, Research, Training, and Demonstrations in the Fields of Heart Disease, Cancer, Stroke, Kidney Disease, and Other Related Diseases	900	375
Title X—Population Research and Voluntary Family Planning programs	1001	384
Title XI—Genetic Diseases, Hemophilia Programs, and Sudden Infant Death Syndrome:		
Part A—Genetic Diseases	1101	389
Part B—Sudden Infant Death Syndrome	1121	392
Part C—Hemophilia Programs	1131	392
Title XII—Emergency Medical Services Systems	1201	396
Title XIII—Health Maintenance Organizations	1301	414
Title XIV—Safety of Public Water Systems		444
Title XV—National Health Planning and Development:		
Part A—National Guidelines for Health Planning	1501	445
Part B—Health Systems Agencies	1511	448
Part C—State Health Planning and Development	1521	466
Part D—General Provisions	1531	477
Title XVI—Health Resources Development:		
Part A—Purpose, State Plan, and Project Approval	1601	487
Part B—Allotments	1610	492
Part C—Loans and Loan Guarantees	1620	496
Part D—Project Grants	1625	501
Part E—General Provisions	1630	502
Part F—Area Health Services Development Funds	1640	508
Title XVII—Health Information and Health Promotion	1701	510
Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963:		
Title I—Developmental Disabilities Services and Facilities Construction Act:		
Part A—General Provisions	101	520
Part B—University Affiliated Facilities	121	530
Part C—Grants for Planning, Provision of Services, and Construction and Operation of Facilities for Persons With Developmental Disabilities	131	533
Part D—Special Project Grants	145	543
Title II—Community Mental Health Centers:		
Part A—Planning and Operations Assistance	201	549
Part B—Financial Distress Grants	211	565
Part C—Facilities Assistance	221	567
Part D—Rape Prevention and Control	231	574
Part E—General Provisions	235	576
Title III—Training of Teachers of Mentally Retarded and Other Handicapped Children		582
Title IV—General		583
Title V—Training of Physical Educators and Recreation Personnel for Mentally Retarded and other Handicapped Children		584



Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Excerpts):	Page
Title I—National Institute on Alcohol Abuse and Alcoholism.....	589
Title II—Alcohol Abuse and Alcoholism Prevention, Treatment, Rehabilitation Programs for Federal Civilian Employees.....	592
Title III—Federal Assistance for State and Local Programs:	
Part A—Grants To States.....	593
Part B—Project Grants and Contracts.....	598
Part C—Admission to Hospitals and Outpatient Facilities.....	602
Title IV—The National Advisory Council on Alcohol Abuse and Alcoholism.....	605
Title V—Research.....	606
Title VI—General.....	609
Drug Abuse Office and Treatment Act of 1972:	
Title I—Findings and Declaration of Policy; Definitions; Termination..	613
Title II—Office of Drug Abuse Policy.....	615
Title III—National Drug Abuse Strategy.....	618
Title IV—Other Federal Programs.....	620
Title V—National Institute on Drug Abuse; National Advisory Council on Drug Abuse.....	633
Appendix: Administrative procedure provisions.....	A3

## VOLUME II—FOOD, DRUG, AND RELATED LAW

Federal Food, Drug, and Cosmetic Act:	
Chapter I—Short Title.....	3
Chapter II—Definitions.....	3
Chapter III—Prohibited Acts and Penalties.....	9
Chapter IV—Food.....	17
Chapter V—Drugs and Devices.....	41
Chapter VI—Cosmetics.....	123
Chapter VII—General Administrative Provisions.....	125
Chapter VIII—Imports and Exports.....	146
Chapter IX—Miscellaneous.....	148
Controlled Substances Act (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970).....	153
Title II—Control and Enforcement.....	155
Part A—Short Title; Findings and Declaration; Definitions.....	155
Part B—Authority To Control; Standards and Schedules.....	159
Part C—Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances.....	169
Part D—Offenses and Penalties.....	180
Part E—Administrative and Enforcement Provisions.....	193
Part F—Advisory Commission.....	205
Part G—Conforming, Transitional and Effective Date, and General Provisions.....	207
Controlled Substances Import and Export Act (Title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970).....	215
Title III—Importation and Exportation; Amendments and Repeals of Revenue Laws.....	216
Part A—Importation and Exportation.....	216
Part B—Amendments and Repeals, Transitional and Effective Date Provisions.....	224
Narcotic Addict Rehabilitation Act of 1966.....	233
Title I—Civil Commitment in Lieu of Prosecution.....	234
Title II—Sentencing to Commitment for Treatment.....	239
Title III—Civil Commitment of Persons Not Charged With Any Criminal Offense.....	242
Title IV—Rehabilitation and Posthospitalization Care Programs and Assistance to States and Localities.....	248
Title V—Sentencing After Conviction for Violation of Law Relating to Narcotic Drugs or Marihuana.....	249
Title VI—Miscellaneous Provisions.....	250
Federal Cigarette Labeling and Advertising Act.....	253
Little Cigar Act of 1973.....	259
Tea Importation Act.....	263
Federal Import Milk Act.....	271

Filled Milk.....	277
Appendix: Administrative procedure provisions.....	A3

## VOLUME III—ENVIRONMENT LAW

The Clean Air Act.....	3
Title I—Air Pollution Prevention and Control.....	3
Part A—Air quality and emission limitations.....	3
Part B—Ozone protection.....	72
Part C—Prevention of significant deterioration of air quality.....	78
Part D—Plan requirements for nonattainment areas.....	96
Title II—Emission Standards for Moving Sources.....	102
Part A—Motor Vehicle Emission and Fuel Standards.....	102
Part B—Aircraft Emission Standards.....	141
Title III—General.....	143
Appendix: Provisions of the Clean Air Act Amendments of 1977 which did not amend the Clean Air Act.....	177
Solid Waste Disposal Act.....	191
Title II—Solid Waste Disposal.....	191
Toxic Substances Control Act.....	251
Noise Control Act of 1972.....	319
National Materials Policy Act of 1970.....	345
Title II—National Materials Policy.....	345
Lead-Based Paint Poisoning Prevention Act.....	349
Title I—Grants for the Detection and Treatment of Lead-Based Paint Poisoning.....	350
Title II—Grants for the Elimination of Lead-Based Paint Poisoning.....	353
Title III—Federal Demonstration and Research Program; Federal Housing Administration Requirements.....	354
Title IV—Prohibition Against Future Use of Lead-Based Paint.....	356
Title V—General.....	357
Occupational Safety and Health Act.....	363
Public Health Service Act:	
Title XIV—Safety of Public Water Systems.....	405
Part A—Definitions.....	405
Part B—Public Water Systems.....	407
Part C—Protection of Underground Sources of Drinking Water.....	423
Part D—Emergency Powers.....	431
Part E—General Provisions.....	431
National Environmental Policy Act.....	455
Title I.....	456
Title II.....	459
Appendix: Administrative procedure provisions.....	A3

## VOLUME IV—CONSUMER PROTECTION LAW

Federal Hazardous Substances Act.....	3
Fair Packaging and Labeling Act.....	25
Poison Prevention Packaging Act.....	37
Flammable Fabrics Act.....	47
Consumer Product Safety Act.....	61
Federal Caustic Poison Act.....	105
Magnuson-Moss Warranty—Federal Trade Commission Improvement Act.....	115
Title I—Consumer Product Warranties.....	116
Title II—Federal Trade Commission Improvements.....	128
Federal Trade Commission Act.....	131
Motor Vehicle Information and Cost Savings Act.....	161
Title I—Bumper Standards.....	163
Title II—Automobile Consumer Information Study.....	172
Title III—Diagnostic Inspection Demonstration Projects.....	177
Title IV—Odometer Requirements.....	180
Title V—Improving Automotive Efficiency.....	190
National Traffic and Motor Vehicle Safety Act of 1966.....	213
Title I—Motor Vehicle Safety Standards.....	213
Title II—Tire Safety.....	245
Title III—Research and Test Facilities.....	247
Refrigerator Safety Act.....	251
Appendix: Administrative procedure provisions.....	A3



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## PUBLIC HEALTH SERVICE ACT

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**NOTE.**—Reorganization Plan No. 3 of 1966 (printed in the Appendix) transferred all statutory powers and functions of the Surgeon General and other officers of the Public Health Service and of all agencies of or in the Service to the Secretary of Health, Education, and Welfare. While the Public Health Service Act was not formally amended by that Reorganization Plan, references in the Act to the Surgeon General and such other officers should be read in the light of the transfer of statutory functions.



# PUBLIC HEALTH SERVICE ACT

## TITLE I—SHORT TITLE AND DEFINITIONS

### SHORT TITLE

SECTION 1. This Act may be cited as the "Public Health Service Act" 42 U.S.C. 201

### DEFINITIONS

SEC. 2. When used in this Act—

(a) The term "Service" means the Public Health Service; 42 U.S.C. 201

(b) The term "Surgeon General" means the Surgeon General of the Public Health Service;

(c) Unless the context otherwise requires, the term "Secretary" means the Secretary of Health, Education, and Welfare;

(d) The term "regulations", except when otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Secretary;

(e) The term "executive department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;

(f) Except as provided in sections 314(g)(4)(B), 318(c)(1), 331(h)(3), 355(5), 361(d), 701(9), 1002(c), 1201(2), 1401(13), 1531(1), and 1633(1), the term "State" includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(g) The term "possession" includes, among other possessions, Puerto Rico and the Virgin Islands;

(h) The term "seamen" includes any person employed on board in the care, preservation, or navigation of any vessel, or in the service, on board, of those engaged in such care, preservation, or navigation;

(i) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, exclusive of aircraft and amphibious contrivances;

(j) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant;

all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts and preparations; opiates (as defined in section 3228(f) of the Internal Revenue Code);

(k) The term "addict" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;

(l) The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;

(m) The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n) The term "heart diseases" means diseases of the heart and circulation;

(o) The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth;

(p) The term "uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or Coast and Geodetic Survey; and

(q) The term "drug dependent person" means a person who is using a controlled substance (as defined in section 102 of the Controlled Substances Act) and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence.

## TITLE II—ADMINISTRATION

### PUBLIC HEALTH SERVICE

SEC. 201. The Public Health Service in the Department of Health, Education, and Welfare shall be administered by the Surgeon General under the supervision and direction of the Secretary. 42 U.S.C. 202

### ORGANIZATION

SEC. 202.<sup>1</sup> The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. The Surgeon General is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections and other units as he may find necessary; and from time to time, abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Secretary. The National Institutes of Health shall be administered as a part of the field service. The Surgeon General may delegate to any officer or employee of the Service such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient. 42 U.S.C. 203

### COMMISSIONED CORPS

SEC. 203. There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to the Classification Act of 1923,<sup>2</sup> as amended. Commis- 42 U.S.C. 204

<sup>1</sup> The organizational units specified in this section were all abolished as *statutory* entities by Reorganization Plan No. 3 of 1966 which is printed in full in the Appendix.

<sup>2</sup> Civil service and classification laws are now codified in title 5, United States Code.



sioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps.

#### SURGEON GENERAL

42 U.S.C. 205

SEC. 204.<sup>1</sup> The Surgeon General shall be appointed from the Regular Corps for a four-year term by the President by and with the advice and consent of the Senate. Upon the expiration of such term the Surgeon General, unless reappointed, shall revert to the grade and number in the Regular Corps that he would have occupied had he not served as Surgeon General.

#### DEPUTY SURGEON GENERAL AND ASSISTANT SURGEONS GENERAL

42 U.S.C. 206

SEC. 205.<sup>1</sup> (a) The Surgeon General shall assign one commissioned officer from the Regular Corps to administer the Office of the Surgeon General, to act as Surgeon General during the absence or disability of the Surgeon General or in the event of a vacancy in that office, and to perform such other duties as the Surgeon General may prescribe, and while so assigned he shall have the title of Deputy Surgeon General.

(b) The Surgeon General shall assign six commissioned officers from the Regular Corps to be, respectively, the Director of the National Institutes of Health, the Chief of the Bureau of State Services, the Chief of the Bureau of Medical Services, the Chief Medical Officer of the United States Coast Guard, the Chief Dental Officer of the Service, and the Chief Sanitary Engineering Officer of the Service, and while so serving they shall each have the title of Assistant Surgeon General.

(c) The Surgeon General, with the approval of the Secretary, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service; but the number of such special temporary positions, when added to the eight positions created by section 204 and subsections (a) and (b) of this section, shall not on any day

<sup>1</sup> Reorganization Plan No. 3 of 1966 (printed in the Appendix) abolished as *statutory* positions the positions of Surgeon General and Deputy Surgeon General and abolished as *statutory* agencies (and consequently the directorships) the National Institutes of Health, the Bureau of State Services, and the Bureau of Medical Services; but see section 471 which provides that the President shall appoint the Director of the National Institutes of Health.



exceed three-fourths of 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such special temporary positions, and while so serving they shall each have the title of Assistant Surgeon General.

(d) The Surgeon General shall designate the Assistant Surgeon General who shall serve as Surgeon General in case of absence or disability, or vacancy in the offices, of both the Surgeon General and the Deputy Surgeon General.

#### GRADES, RANKS, AND TITLES OF THE COMMISSIONED CORPS

SEC. 206. (a) The Surgeon General during the period of his appointment as such, shall be of the same grade as the Surgeon General of the Army; the Deputy Surgeon General and the Chief Medical Officer of the United States Coast Guard, while assigned as such, shall have the grade corresponding with the grade of major general; and the Chief Dental Officer, while assigned as such, shall have the grade as is prescribed by law for the officer of the Dental Corps selected and appointed as Assistant Surgeon General of the Army. Assistant Surgeons General, while assigned as such, shall have the grade corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Secretary after considering the importance of the duties to be performed: *Provided*, That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 205 or pursuant to subsection (c) of such section. The grades of commissioned officers of the Service shall correspond with grades of officers of the Army as follows:

- (1) Officers of the director grade—colonel;
- (2) Officers of the senior grade—lieutenant colonel;
- (3) Officers of the full grade—major;
- (4) Officers of the senior assistant grade—captain;
- (5) Officers of the assistant grade—first lieutenant; and
- (6) Officers of the junior assistant grade—second lieutenant.

(b) The titles of medical officers of the foregoing grades shall be respectively (1) medical director, (2) senior surgeon, (3) surgeon, (4) senior assistant surgeon, (5) assistant surgeon and (6) junior assistant surgeon.

The President is authorized to prescribe titles, appropriate to the several grades, for commissioned officers of the Service other than medical officers. All titles of the officers of the Reserve Corps shall have the suffix "Reserve".

(c) Any commissioned officer below the grade of director who is assigned to serve as chief of a division shall, for the duration of such assignment, have the grade of director and receive the pay and allowances applicable to such grade.

(d) Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Secretary shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the junior assistant grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima established by such regulations shall not require (apart from action pursuant to other provisions of this Act) any officer to be separated from the Service or reduced in grade.

#### APPOINTMENT OF PERSONNEL

42 U.S.C. 209

SEC. 207. (a) (1) Except as provided in subsections (b) and (e) of this section, original appointments to the Regular Corps may be made only in the junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, nursing, or related scientific specialties in the field of public health.

(2) Original appointments to the Reserve Corps may be made to any grade up to and including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for an indefinite period and may be terminated at any time, as the President may direct.

(3) No individual who has attained the age of forty-four shall be appointed to the Regular Corps, or called to active duty in the Reserve Corps for a period in excess of one year, unless (A) he has had a number of years of active service (as defined in section 211(d)) equal to the number of years by which his age exceeds forty-four, or (B) the Surgeon General determines that he possesses exceptional qualifications, not readily available elsewhere in the Commissioned Corps of the Public Health Service, for the performance of special duties with the Service, or (C) in the case of an officer of the Reserve Corps, the Commissioned Corps of the Service has been declared by the President to be a military service.

(b)(1) Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate.

(2) In addition to the number of original appointments to the Regular Corps authorized by paragraph (1) to be made to grades above that of senior assistant, original appointments authorized to be made to the Regular Corps in any year may be made to grades above that of senior assistant, but not above that of director, in the case of any individual who—

(A) (i) was on active duty in the Reserve Corps on July 1, 1960, (ii) was on such active duty continuously for not less than one year immediately prior to such date, and (iii) applies for appointment to the Regular Corps prior to July 1, 1962; or

(B) does not come within clause (A) (i) and (ii) but was on active duty in the Reserve Corps continuously for not less than one year immediately prior to his appointment to the Regular Corps and has not served on active duty continuously for a period, occurring after June 30, 1960, of more than three and one-half years prior to applying for such appointment.



(3) No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.

(c) Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps shall be issued by the Secretary under the seal of the Department of Health, Education, and Welfare.

(d)(1) For purposes of basic pay and for purposes of promotion, any person appointed under subsection (a) to the grade of senior assistant in the Regular Corps and any person appointed under subsection (b), shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.

(2) For purposes of basic pay, any person appointed under subsection (a) to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b), shall, in lieu of the credit provided in paragraph (1), be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1), plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade.

(e)(1) A former officer of the Regular Corps may, if application for appointment is made within two years after the date of the termination of his prior commission

in the Regular Corps, be reappointed to the Regular Corps without examination, except as the Surgeon General may otherwise prescribe, and without regard to the numerical limitations of subsection (b).

(2) Reappointments pursuant to this subsection may be made to the permanent grade held by the former officer at the time of the termination of his prior commission, or to the next higher grade if such officer meets the eligibility requirements prescribed by regulation for original appointment to such higher grade. For purposes of pay, promotion, and seniority in grade, such reappointed officer shall receive the credits for service to which he would be entitled if such appointment were an original appointment, but in no event less than the credits he held at the time his prior commission was terminated, except that if such officer is reappointed to the next higher grade he shall receive no credit for seniority in grade.

(3) No former officer shall be reappointed pursuant to this subsection unless he shall meet such standards as the Secretary may prescribe.

(f) In accordance with regulations, special consultants may be employed to assist and advise in the operations of the Service. Such consultants may be appointed without regard to the civil-service laws and their compensation may be fixed without regard to the Classification Act of 1923, as amended.<sup>1</sup>

(g) In accordance with regulations, individual scientists, other than commissioned officers of the Service, may be designated by the Surgeon General to receive fellowships, appointed for duty with the Service without regard to the civil-service laws and compensated without regard to the Classification Act of 1923, as amended,<sup>1</sup> may hold their fellowships under conditions prescribed therein, and may be assigned for studies or investigations either in this country or abroad during the terms of their fellowships.

(h) Persons who are not citizens may be employed as consultants pursuant to subsection (e) and may be appointed to fellowships pursuant to subsection (f). Unless otherwise specifically provided, any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them, shall not be applicable in the case of persons employed or appointed pursuant to such subsections.

(i) The appointment of any officer or employee of the Service made in accordance with the civil-service laws shall be made by the Secretary, and may be made effective as of the date on which such officer or employee enters upon duty.

<sup>1</sup> See footnote 2 on p. 5.

## PAY AND ALLOWANCES

42 U.S.C. 210

SEC. 208. (a) Commissioned officers of the Regular and Reserve Corps shall be entitled to receive such pay and allowances as are now or may hereafter be authorized by law.

(b) Commissioned officers on active duty, and retired officers entitled to retired pay pursuant to section 210(g)(3), section 211 or section 221(a), shall be permitted to purchase supplies from the Army, Navy, Air Force, and Marine Corps at the same price as is charged officers thereof.

(c) Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this Act, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding ex officio members, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary shall be entitled to receive compensation at rates to be fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of such service for grade GS-18 of the General Schedule, including traveltime; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

(d) Field employees of the Service, except those employed on a per diem or fee basis, who render part-time duty and are also subject to call at any time for services not contemplated in their regular part-time employment, may be paid annual compensation for such part-time duty and, in addition, such fees for such other services as the Surgeon General may determine; but in no case shall the total paid to any such employee for any fiscal year exceed the amount of the minimum annual salary rate of the classification grade of the employee.

(e) Whenever any noncommissioned officer or other employee of the Service is assigned for duty which the Surgeon General finds require intimate contact with persons afflicted with leprosy, he may be entitled to receive, as provided by regulations of the President, in addition to any pay or compensation to which he may otherwise be entitled, not more than one-half of such pay or compensation.

(f) Individuals appointed under subsection (g) shall have included in their fellowships such stipends or allow-



ances, including travel and subsistence expenses, as the Surgeon General may deem necessary to procure qualified fellows.

(g) The Secretary is authorized to establish and fix the compensation for, within the Public Health Service, not more than one hundred and fifty-five positions, of which not less than one hundred and fifteen shall be for the National Institutes of Health and not less than five shall be for the National Institute on Alcohol Abuse and Alcoholism for individuals engaged in research on alcohol abuse and alcoholism, in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Public Health Service which require the services of specially qualified scientific, professional, and administrative personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule of the Classification Act of 1949, as amended,<sup>1</sup> nor more than (1) the highest rate of grade 18 of the General Schedule of such Act, or (2) in the case of two such positions, the rate specified, at the time the service in the position is performed, for level II of the Executive Schedule (5 U.S.C. 5313); and such rates of compensation for all positions included in this proviso shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose.

#### PROFESSIONAL CATEGORIES

SEC. 209. (a) For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 207(a)(1) or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

42 U.S.C. 210b

(b) Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories

<sup>1</sup> See footnote 2 on p. 5.

established by regulations under subsection (a). Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interests of the Service.

(c) Within the limits fixed by the Secretary in regulations under section 206(d) for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps the maximum number of officers authorized to be in each of the grades from the assistant grade to the director grade, inclusive.

(d) The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including, in the case of the director grade, officers holding such grade in accordance with section 206(c)) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the grade of director in accordance with section 206(c) shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is temporarily assigned to a position pursuant to section 205(c), the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

(e) The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant to section 207, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

(f) Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 206(d); and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the making of such promotion the number for the next lower grade shall be reduced by one.

#### PROMOTIONS AND SEPARATION OF COMMISSIONED OFFICERS IN THE REGULAR CORPS

SEC. 210. (a) Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on

length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

(b) The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a "restricted grade".

(c) Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the President for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

(d) Officers of the Regular Corps, found pursuant to subsection (c) to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2) Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b)) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any



officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

(e) Officers in a professional category of the Regular Corps, found pursuant to subsection (c) to be qualified may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

(f) If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e)), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

(g) If, for reasons other than physical disability, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) if in the assistant grade he shall be separated from the Service and paid six months' basic pay and allowances;

(2) if in the senior assistant grade he shall be separated from the Service and paid one year's basic pay and allowances;

(3) if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of  $2\frac{1}{2}$  per centum of the basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the service.

(h) If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

(i) At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

(j) (1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2), by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade of junior assistant) over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

(k) Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pur-

suant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

(1) Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Secretary shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Secretary finds that the number of officers fixed under section 209(c) for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under section 209(c)) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

(m) Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by the Act of December 11, 1926, as amended (5 U.S.C. 21a).<sup>1</sup>

#### RETIREMENT OF COMMISSIONED OFFICERS

42 U.S.C. 212

SEC. 211. (a) (1) A commissioned officer of the Service shall be retired on the first day of the month following the month in which he attains the age of sixty-four years.

(2) A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.

(3) Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion of twenty or more years of active service of which not

<sup>1</sup> This Act has been codified to section 3332 of title 5, United States Code.



less than ten are years of active commissioned service in any of the uniformed services.

(4) A commissioned officer retired pursuant to paragraph (1), (2), or (3) who was (in the case of an officer in the Reserve Corps) on active duty with the Service on the day preceding such retirement shall be entitled to receive retired pay at the rate of  $21\frac{1}{2}$  per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d)) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer's attendance at medical school or dental school or during his medical internship; plus

(iii) the number of years of service with which he was entitled to be credited for purposes of basic pay on May 31, 1958, or (if higher) on any date prior thereto, reduced by any such year included under clause (i) and further reduced by any such year with which he was entitled to be credited under paragraphs (7) and (8) of section 205(a) of title 37, United States Code, on any date before June 1, 1958;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e)), and who does not use, for purposes of a retirement annuity under the Civil Service Retirement Act,<sup>1</sup> any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may

<sup>1</sup> The Civil Service Retirement Act has been codified to chapter 83 of title 5, United States Code.

retire voluntarily at any time; and his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(b) For purposes of subsection (a), the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a), be involuntarily recalled to active duty during such times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either the Regular or Reserve Corps, be recalled to active duty at any time with his consent.

(d) The term "active service", as used in subsection (a), includes:

(1) all active service in any of the uniformed services;

(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included; and

(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement purposes under laws governing the retirement of members of any of the uniformed services.

(e) For the purpose of determining the number of years by which a percentage of the basic pay of an officer is to be multiplied in computing the amount of his retired pay pursuant to section 210(g)(3) or paragraph (4) of subsection (a) of this section, a part of a year of active service of six months or more shall be counted as a whole year and a part of year of active service which is less than six months shall be disregarded.

(f) For purposes of retirement or separation for physical disability under chapter 61 of title 10, United States Code, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)

(2) shall be applicable to officers of the Regular or Reserve Corps of the Service.

#### MILITARY BENEFITS

SEC. 212. (a) Except as provided in subsection (b), commissioned officers of the Service and their surviving beneficiaries shall, with respect to active service performed by such officers— 42 U.S.C. 213

- (1) in time of war;
- (2) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or
- (3) while the Service is part of the military forces of the United States pursuant to Executive order of the President;

be entitled to all rights, privileges, immunities, and benefits now or hereafter provided under any law of the United States in the case of commissioned officers of the Army or their surviving beneficiaries on account of active military service, except retired pay and uniform allowances.

(b) The President may prescribe the conditions under which commissioned officers of the Service may be awarded military ribbons, medals, and decorations.

(c) The authority vested by law in the Department of the Army, the Secretary of the Army, or other officers of the Department of the Army with respect to rights, privileges, immunities, and benefits referred to in subsection (a) shall be exercised, with respect to commissioned officers of the Service, by the Surgeon General.

(d) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 217 of the Social Security Act.

(e) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).

#### ALLOWANCES FOR UNIFORMS

SEC. 213.<sup>1</sup> \* \* \*

42 U.S.C. 214

#### DETAIL OF PERSONNEL

SEC. 214. (a) The Secretary is authorized, upon the request of the head of an executive department, to detail 42 U.S.C. 215

<sup>1</sup> Repealed. Its provisions now covered by section 415(d) of title 37, United States Code.



officers or employees of the Service to such department for duty as agreed upon by the Secretary and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service. When officers or employees are so detailed their salaries and allowances may be paid from working funds established as provided by law or may be paid by the Service from applicable appropriation and reimbursement may be made as agreed upon by the Secretary and the head of the executive department concerned. Officers detailed for duty with the Army, Navy, or Coast Guard shall be subject to the laws for the government of the service to which detailed.

(b) Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or political subdivision thereof in work related to the functions of the Service.

(c) The Surgeon General may detail personnel of the Service to nonprofit educational research, or other institutions engaged in health activities for special studies of scientific problems and for the dissemination of information relating to public health.

(d) Personnel detailed under subsections (b) and (c) shall be paid from applicable appropriations of the Service except that, in accordance with regulations such personnel may be placed on leave without pay and paid by the State, subdivision, or institution to which they are detailed. The services of personnel while detailed pursuant to this section shall be considered as having been performed in the Service for purposes of the computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by section 212.

#### REGULATIONS

42 U.S.C. 216

SEC. 215. (a) The President shall from time to time prescribe regulations with respect to the appointment, promotion, retirement, termination of commission, title, pay, uniforms, allowances (including increased allowances for foreign service), and discipline of the commissioned corps of the Service.

(b) The Surgeon General, with the approval of the Secretary, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service, including regulations with respect to uniforms for employees, and regulations with respect to the custody, use, and preservation of the records, papers, and property of the Service.

(c) No regulations relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine.



## USE OF SERVICE IN TIME OF WAR OR EMERGENCY

SEC. 216. In time of war, or of emergency proclaimed by the President, he may utilize the Service to such extent and in such manner as shall in his judgment promote the public interest. In time of war, or of emergency involving the national defense proclaimed by the President, he may by Executive order declare the commissioned corps of the Service to be a military service. Upon such declaration, and during the period of such war or such emergency or such part thereof as the President shall prescribe, the commissioned corps (a) shall constitute a branch of the land and naval forces of the United States, (b) shall, to the extent prescribed by regulations of the President, be subject to the Uniform Code of Military Justice, and (c) shall continue to operate as part of the Service except to the extent that the President may direct as Commander in Chief. 42 U.S.C. 217

## NATIONAL ADVISORY COUNCILS

SEC. 217. (a) The National Advisory Health Council, the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council shall each consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members; and twelve members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among the leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Heart Council, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of psychiatric disorders, alcohol abuse and alcoholism, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall be appointed for the remainder of such term; (2) the terms of the 42 U.S.C. 218

members (other than the members of the National Advisory Council on Alcohol Abuse and Alcoholism) first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Surgeon General at the time of appointment; and (3) the terms of the members of the National Council on Alcohol Abuse and Alcoholism first taking office after the date of enactment of this clause, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b) The National Advisory Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to health activities and functions of the Service. The Surgeon General is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils or committees established under this Act on mental health, alcohol abuse and alcoholism, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

(c) The National Advisory Mental Health Council shall advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities and functions of the Service in the field of mental health. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of mental health and recommend to the Surgeon General, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders; and (2) to collect information as to studies being carried on in the field of mental health and, with the approval of the Surgeon General, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public and private), physicians, or any other scientists, and for the information of the

general public. The Council is also authorized to recommend to the Surgeon General, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of mental health; and the Surgeon General shall recommend acceptance of any such gifts only after consultation with the Council.

(d) The National Advisory Council on Alcohol Abuse and Alcoholism shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Secretary in the field of alcohol abuse and alcoholism, including policies and priorities with respect to grants and contracts. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of alcohol abuse and alcoholism and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of alcohol abuse and alcoholism, and (2) to collect information as to studies being carried on in the field of alcohol abuse and alcoholism and, with the approval of the Secretary, make available such information through appropriate publications for the benefit of health and welfare agencies or organizations (public or private) or physicians or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of alcohol abuse and alcoholism; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.

(e) (1) The National Advisory Council on Drug Abuse shall consist of the Secretary, who shall be Chairman, the chief medical officer of the Veterans' Administration or his representative, and a medical officer designated by the Secretary of Defense, who shall be ex officio members. In addition, the Council shall be composed of twelve members appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members of the Council shall represent a broad range of interests, disciplines, and expertise in the drug area and shall be selected from outstanding professionals and paraprofessionals in the fields of medicine, education, science, the social sciences, and other related disciplines, who have been active in the areas of drug abuse prevention, treatment, rehabilitation, training, or research.

(2) The Council shall advise, consult with, and make recommendations to, the Secretary

(A) concerning matters relating to the activities and functions of the Secretary in the field of drug



abuse, including, but not limited to, the development of new programs and priorities, the efficient administration of programs, and the supplying of needed scientific and statistical data and program information to professionals, paraprofessionals, and the general public; and

(B) concerning policies and priorities respecting grants and contracts in the field of drug abuse.

(f) (1) There shall be established a National Advisory Council for the Protection of Subjects of Biomedical and Behavioral Research (hereinafter in this subsection referred to as the "Council") which shall consist of the Secretary who shall be Chairman and not less than seven nor more than fifteen other members who shall be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Secretary shall select members of the Council from individuals distinguished in the fields of medicine, law, ethics, theology, the biological, physical, behavioral and social sciences, philosophy, humanities, health administration, government, and public affairs; but three (and not more than three) of the members of the Council shall be individuals who are or who have been engaged in biomedical or behavioral research involving human subjects. No individual who was appointed to be a member of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (established under title II of the National Research Act) may be appointed to be a member of the Council. The appointed members of the Council shall have terms of office of four years, except that for the purpose of staggering the expiration of the terms of office of the Council members, the Secretary shall, at the time of appointment, designate a term of office of less than four years for members first appointed to the Council.

(2) The Council shall—

(A) advise, consult with, and make recommendations to, the Secretary concerning all matters pertaining to the protection of human subjects of biomedical and behavioral research;

(B) review policies, regulations, and other requirements of the Secretary governing such research to determine the extent to which such policies, regulations, and requirements require and are effective in requiring observance in such research of the basic ethical principles which should underlie the conduct of such research and, to the extent such policies, regulations, or requirements do not require or are not effective in requiring observance of such principles, make recommendations to the Secretary

respecting appropriate revision of such policies, regulations, or requirements; and

(C) review periodically changes in the scope, purpose, and types of biomedical and behavioral research being conducted and the impact such changes have on the policies, regulations, and other requirements of the Secretary for the protection of human subjects of such research.

(3) The Council may disseminate to the public such information, recommendations, and other matters relating to its functions as it deems appropriate.

(4) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.<sup>1</sup>

(g)(1) Within 120 days of the date of the enactment of this subsection, the Secretary shall appoint and organize a National Advisory Council on Migrant Health (hereinafter in this subsection referred to as the Council) which shall advise, consult with, and make recommendations to, the Secretary on matters concerning the organization, operation, selection, and funding of migrant health centers and other entities under grants and contracts under section 319.

(2) The Council shall consist of fifteen members, at least twelve of whom shall be members of the governing boards of migrant health centers or other entities assisted under section 319. Of such twelve members who are members of such governing boards, at least nine shall be chosen from among those members of such governing boards who are being served by such centers or grantees and who are familiar with the delivery of health care to migratory agricultural workers and seasonal agricultural workers. The remaining three Council members shall be individuals qualified by training and experience in the medical sciences or in the administration of health programs.

(3) Each member of the Council shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of the members first taking office after the date of enactment of this subsection shall expire as follows: four shall expire four years after such date, four shall expire three years after such date, four shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment.

(4) Section 14(a) of the Federal Advisory Committee Act shall not apply to the Council.

<sup>1</sup> Effective July 1, 1976.

## TRAINING OF OFFICERS

42 U.S.C. 218a

SEC. 218. (a) Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty while attending any Federal or non-Federal educational institution or training program and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition, fees, and other necessary expenses incident to such attendance.

(b) Any officer whose tuition and fees are paid pursuant to subsection (a) while attending an educational institution or training program for a period in excess of thirty days shall be obligated to reimburse the Service for such tuition and fees if thereafter he voluntarily leaves the Service within whichever of the following periods of active service is the greater; (1) six months, or (2) twice the period of such attendance but in no event more than two years. Such subsequent period of service shall commence upon the cessation of such attendance and of any further continuous period of training duty for which no tuition and fees are paid by the Service and which is part of the officer's prescribed formal training program, whether such further training is at a Service facility or otherwise. The Surgeon General may waive, in whole or in part, any reimbursement which may be required by this subsection upon a determination that such reimbursement would be inequitable or would not be in the public interest.

## ANNUAL AND SICK LEAVE

42 U.S.C. 210-1

SEC. 219. (a) In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may be granted annual leave and sick leave without any deductions from their pay and allowances: *Provided*, That such regulations shall not authorize annual leave to be accumulated in excess of sixty days.

(b)<sup>1</sup> \* \* \*

(c) Except in cases of emergency, no annual leave shall be granted to an officer described in subsection (a) between the date upon which such officer applies for, or the Service directs, his retirement, separation, or release from active duty, whichever date is the earlier, and the effective date of such retirement, separation or release from active duty.

(d) For purposes of this section the term "accumulated annual leave" means unused accrued annual leave

<sup>1</sup> Repealed. Its provision relating to forfeiture of pay and allowances covered by section 503(b) of title 37, United States Code.



carried forward from one leave year into a succeeding leave year, and the term "accrued annual leave" means the annual leave accruing to an officer during one leave year.

PROMOTION CREDIT—ASSISTANT GRADE

SEC. 220. Any medical officer of the Regular Corps 42 U.S.C. 211c  
of the Public Health Service who—

(1) (A) was appointed to the assistant grade in the Regular Corps and whose service in such Corps has been continuous from the date of appointment or (B) may hereafter be appointed to the assistant grade in the Regular Corps, and

(2) had or will have completed a medical internship on the date of such appointment, shall be credited with one year for purposes of promotion and seniority in grade, except that no such credit shall be authorized if the officer has received or will receive similar credit for his internship under other provisions of law. In the case of an officer on active duty on the effective date of this section who is entitled to the credit authorized herein, the one year shall be added to the promotion and seniority-in-grade credits with which he is credited on such date.

[RIGHTS, PRIVILEGES, ETC. OF OFFICERS AND SURVIVING BENEFICIARIES]

SEC. 221. (a) Commissioned officers of the Service or 42 U.S.C. 213a  
their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of title 10, United States Code:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1374, 1375, and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 212 of this Act.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2634, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposit of savings.

(b) The authority vested by title 10, United States Code, in the "military departments" or "the Secretary concerned" with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health, Education, and Welfare or his designee.

#### ADVISORY COUNCILS OR COMMITTEES

42 U.S.C. 217a

SEC. 222. (a) The Secretary may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, from time to time, appoint such advisory councils or committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable with such period commencing on a date specified by the Secretary for the purpose of advising him in connection with any of his functions.

(b) Members of any advisory council or committee appointed under this section who are not regular full-time employees of the United States shall, while attending meetings or conferences of such council or committee or otherwise engaged on business of such council or committee receive compensation and allowances as provided in section 208(c) for members of national advisory councils established under this Act.

(c) Upon appointment of any such council or committee, the Surgeon General, with the approval of the Secretary, may transfer such of the functions of the National Advisory Health Council relating to grants-in-aid for research or training projects or programs in the areas or fields with which such council or committee is concerned as he determines to be appropriate.

#### VOLUNTEER SERVICES

42 U.S.C. 217b

SEC. 223. Subject to regulations, volunteer and uncompensated services may be accepted by the Secretary, or by any other officer or employee of the Department of Health, Education, and Welfare designated by him, for use in the operation of any health care facility or in the provision of health care.

SEC. 224. (a) The remedy against the United States 42 U.S.C. 233 provided by sections 1346(b) and 2672 of title 28, or by alternative benefits provided by the United States where the availability of such benefits precludes a remedy under section 1346(b) of title 28, for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee (or his estate) whose act or omission gave rise to the claim.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merit that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State Court: *Provided*, That where such a remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in the event the running of any limitation of time for commencing, or filing an application or claim in,



such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to assault or battery arising out of negligence in the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations.

(f) The Secretary or his designee may, to the extent that he deems appropriate, hold harmless or provide liability insurance for any officer or employee of the Public Health Service for damage for personal injury, including death, negligently caused by such officer or employee while acting within the scope of his office or employment and as a result of the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, if such employee is assigned to a foreign country or detailed to a State or political subdivision thereof or to a non-profit institution, and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, for such damage or injury.

PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS  
SCHOLARSHIP TRAINING PROGRAM

42 U.S.C. 234

SEC. 225.<sup>1</sup>

ADMINISTRATION OF GRANTS IN CERTAIN MULTIGRANT  
PROJECTS

42 U.S.C. 235

SEC. 226. For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by titles VII, VIII, and IX, and sections 304, 314(a), 314(b), 314(c), 314(d), and 314(e) of this Act in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

<sup>1</sup> This section repealed by sec. 408(b) of P.L. 94-484, effective Oct. 1, 1977, and replaced by new subpart IV of part C of title VIII.

(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

#### ANNUAL REPORT

SEC. 227. On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of title IX of this Act and sections 314(a), 314(b), 314(c), 314(d), and 314(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationship between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financing after an initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate.

42 U.S.C. 236

## TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

### PART A—RESEARCH AND INVESTIGATION

#### IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to— 42 U.S.C. 241

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Cancer Advisory Board, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or with respect to heart, blood vessel, lung, and blood diseases and blood resources, recommended by the National Heart, Lung, and Blood Advisory Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council, and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project; and make, upon recommendation of the National Advisory Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research: *Provided*, That such uniform percentage, not to exceed 15 per centum, as the Surgeon General may



determine, of the amounts provided for grants for research projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research grants-in-aid for such fiscal year;

(d) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(e) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(f) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields; and

(g) Enter into contracts, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under title 10, United States Code, sections 2353 and 2354, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

(h) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Cancer Advisory Board or with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart, blood vessel, lung, and blood diseases and blood resources, upon recommendation of the National Heart, Lung, and Blood Advisory Council, or, with respect to dental diseases and conditions, upon recommendation of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

#### NARCOTICS

SEC. 302. (a) In carrying out the purposes of section 301 with respect to drugs the use or misuse of which might result in drug abuse or dependency, the studies and investigations authorized therein shall include the use and misuse of narcotic drugs and other drugs. Such studies and investigations shall further include the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under the Controlled Substances Act and Controlled

Substances Import and Export Act, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such Acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the first day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under such Acts.

(b) The Surgeon General shall cooperate with States for the purpose of aiding them to solve their narcotic drug problems and shall give authorized representatives of the States the benefit of his experience in the care, treatment, and rehabilitation of narcotic addicts to the end that each State may be encouraged to provide adequate facilities and methods for the care and treatment of its narcotic addicts.

#### MENTAL HEALTH

42 U.S.C. 242a

SEC. 303. (a) In carrying out the purposes of section 301 with respect to mental health, the Surgeon General is authorized—

(1) to provide clinical training and instruction and to establish and maintain clinical traineeships (with such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary);

(2) to make grants to State or local agencies, laboratories, and other public or nonprofit agencies and institutions, and to individuals for investigations, experiments, demonstrations, studies, and research projects with respect to the development of improved methods of diagnosing mental illness, and of care, treatment, and rehabilitation of the mentally ill, including grants to State agencies responsible for administration of State institutions for care, or care and treatment, of mentally ill persons for developing and establishing improved methods of operations and administration of such institutions.

The Secretary may authorize persons engaged in research on mental health, including research on the use and effect of alcohol and other psychoactive drugs, to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or

local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

(b) The Secretary may provide for training instruction, and traineeships under subsection (a) (1) through grants to public and other nonprofit institutions. Grants under paragraph (2) of subsection (a) may be made only upon recommendation of the National Advisory Mental Health Council. Such grants may be paid in advance or by way of reimbursement, as may be determined by the Surgeon General; and shall be made on such conditions as the Surgeon General finds necessary.

GENERAL AUTHORITY RESPECTING HEALTH STATISTICS AND HEALTH SERVICES RESEARCH, EVALUATIONS, AND DEMONSTRATIONS 42 U.S.C. 242b

SEC. 304. (a) (1) The Secretary shall—

(A) undertake through the National Center for Health Services Research, the National Center for Health Statistics, and such other units of the Department of Health, Education, and Welfare as he may select, and

(B) support, health statistical activities and health services research, evaluation, and demonstrations.

(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research and statistical activities respecting—

(A) the determinants of an individual's health,

(B) the impact of the environment on individual health and on health care,

(C) the accessibility, acceptability, planning, organization, technology, distribution, utilization, quality, and financing of systems for the delivery of health care, including systems for the delivery of preventive, personal, and mental health care, and

(D) individual and community knowledge of individual health and the systems for the delivery of health care.

(b) To implement subsection (a), the Secretary may, in addition to any other authority which under other provisions of this Act or any other law may be used by him to implement such subsection, do the following:

(1) Utilize personnel and equipment, facilities, and other physical resources of the Department of Health, Education, and Welfare, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, provide technical assistance and advice, make grants to public and nonprofit private entities and individuals, and enter into contracts with public and private entities and individuals, for (A) health



services research, evaluation, and demonstrations, and (B) health services research and health statistics training, and (C) health statistical activities.

(2) Admit and treat at hospitals and other facilities of the Service persons not otherwise eligible for admission and treatment at such facilities.

(3) Secure, from time to time and for such periods as the Secretary deems advisable, the assistance and advice of experts and consultants from the United States or abroad.

(4) Acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary; and acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia.

(c) The Secretary shall coordinate all health services research, evaluation, demonstration, and health statistical activities undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible, such coordination shall be carried out through the National Center for Health Services Research and the National Center for Health Statistics.

SEC. 305. (a) There is established in the Department of Health, Education, and Welfare the National Center for Health Services Research (hereinafter in this section referred to as the "Center") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

(b) In carrying out section 304(a), the Secretary, acting through the Center, may undertake and support research, evaluation, and demonstration projects (which may include and shall be appropriately coordinated with experiments and demonstration activities authorized by the Social Security Act and the Social Security Amendments of 1967) respecting—

(1) the accessibility, acceptability, planning, organization, distribution, technology, utilization, quality, and financing of health services and systems;

(2) the supply and distribution, education and training, quality, utilization, organization, and costs of health manpower; and

(3) the design, construction, utilization, organization, and cost of facilities and equipment.

(c) The Secretary shall afford appropriate consideration to requests of—

(1) State, regional, and local health planning and health agencies,

(2) public and private entities and individuals engaged in the delivery of health care, and

(3) other persons concerned with health services, to have the Center or other units of the Department of Health, Education, and Welfare undertake research, evaluations, and demonstrations respecting specific aspects of the matters referred to in subsection (b).

(d) (1) The Secretary shall, by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services, research, evaluations, and demonstrations respecting the matters referred to in subsection (b). To the extent practicable, the Secretary shall approve, in accordance with the requirements of this subsection and section 308, a number of applications for grants and contracts under this subsection which will result in at least six of such centers (including three national special emphasis centers, one of which (to be designated as the Health Care Technology Center) shall focus on all forms of technology, including computers and electronic devices, and its applications in health care delivery; one of which (to be designated as the Health Care Management Center) shall focus on the improvement of management and organization in the health field, the training and retraining of administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field; and one of which (to be designated as the Health Services Policy Analysis Center) shall focus on the development and evaluation of national policies with respect to health services, including the development of health maintenance organizations and other forms of group practice, with a view toward improving the efficiencies of the health services delivery system) being operational in each fiscal year.

(2) (A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary determines that when it is operational it will meet the requirements listed in subparagraph (B) and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

(B) The requirements referred to in subparagraph (A) are as follows:

(i) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained

productivity and leadership in health services research, demonstrations, and evaluations, and there shall be such additional full-time professional staff as may be appropriate.

(ii) The staff of the center shall represent all relevant disciplines.

(iii) The center shall (I) be located within an established academic or research institution with departments and resources appropriate to the programs of the center, and (II) have working relationships with health service delivery systems where experiments in health services may be initiated and evaluated.

(iv) The center shall select problems in health services for research, demonstrations, and evaluations on the basis of (I) their regional or national importance, (II) the unique potential for definitive research on the problem, and (III) opportunities for local application of the research findings.

(v) Such additional requirements as the Secretary may by regulation prescribe.

(e) The authority of the Secretary under section 304 (b) shall be available to him with respect to the undertaking and support of projects under subsections (b), (c), and (d) of this section.

#### NATIONAL CENTER FOR HEALTH STATISTICS

42 U.S.C. 242k

SEC. 306. (a) There is established in the Department of Health, Education, and Welfare the National Center for Health Statistics (hereinafter in this section referred to as the "Center") which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

(b) In carrying out section 304(a), the Secretary, acting through the Center, may—

(1) collect statistics on—

(A) the extent and nature of illness and disability of the population of the United States (or of any groupings of the people included in the population), including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality,

(B) the impact of illness and disability of the population on the economy of the United States and on other aspects of the well-being of its population (or of such groupings),

(C) environmental, social, and other health hazards,



(D) determinants of health,

(E) health resources, including physicians, dentists, nurses, and other health professionals by specialty and type of practice and the supply of services by hospitals, extended care facilities, home health agencies, and other health institutions,

(F) utilization of health care, including utilization of (i) ambulatory health services by specialties and types of practice of the health professionals providing such services, and (ii) services of hospitals, extended care facilities, home health agencies, and other institutions,

(G) health care costs and financing, including the trends in health care prices and cost, the sources of payments for health care services, and Federal, State, and local governmental expenditures for health care services, and

(H) family formation, growth, and dissolution; and

(2) undertake and support (by grant or contract) research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in paragraph (1).

(c) The Center shall furnish such special statistical compilations and surveys as the Committee on Labor and Public Welfare and the Committee on Appropriations of the Senate and the Committee on Interstate and Foreign Commerce and the Committee on Appropriations of the House of Representatives may request. Such statistical compilations and surveys shall not be made subject to the payment of the actual or estimated cost of the preparation of such compilations and surveys.

(d) To insure comparability and reliability of health statistics, the Secretary shall, through the Center, provide adequate technical assistance to assist State and local jurisdictions in the development of model laws dealing with issues of confidentiality and comparability of data.

(e) The Secretary shall (1) assist State and local health agencies, and Federal agencies involved in matters relating to health, in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels; (2) coordinate the activities of such Federal agencies respecting the design and implementation of such cooperative system; (3) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting such cooperative system; (4) provide the Federal share of the data collection costs under such system; and (5) review statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with such cooperative system.

(f) To assist in carrying out this section, the Secretary shall cooperate and consult with the Departments of Commerce and Labor and any other interested Federal departments or agencies and with State and local health departments and agencies. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal Government and, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), of any appropriate State or other public agency, and may, without regard to such section, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group and the Secretary or between such individual and the Secretary. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.

(g) To secure uniformity in the registration and collection of mortality, morbidity, and other health data, the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such data which shall be published as a part of the health reports published by the Secretary.

(h) There shall be an annual collection of data from the records of births, deaths, marriages, and divorces in registration areas. The data shall be obtained only from and restricted to such records of the States and municipalities which the Secretary, in his discretion, determines possess records affording satisfactory data in necessary detail and form. Each State or registration area shall be paid by the Secretary the Federal share of its reasonable costs (as determined by the Secretary) for collecting and transcribing (at the request of the Secretary and by whatever method authorized by him) its records for such data.

(i) (1) There is established in the Office of the Secretary a committee to be known as the United States National Committee on Vital and Health Statistics (hereinafter in this subsection, referred to as the "Committee") which shall consist of fifteen members.

(2) (A) The members of the Committee shall be appointed by the Secretary from among persons who have distinguished themselves in the fields of health statistics, epidemiology, and the provision of health services. Except as provided in subparagraph (B), members of the Committee shall be appointed for terms of three years.

(B) Of the members first appointed—

(i) five shall be appointed for terms of one year.

(ii) five shall be appointed for terms of two years,

and

(iii) five shall be appointed for terms of three years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(3) Members of the Committee shall be compensated in accordance with section 208(c).

(4) It shall be the function of the Committee to assist and advise the Secretary—

(A) to delineate statistical problems bearing on health and health services which are of national or international interest;

(B) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

(C) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (i) within the Department of Health, Education, and Welfare, (ii) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e), and (iii) to the extent possible as determined by the head of the agency involved, by the Veterans' Administration, the Department of Defense, and other Federal agencies concerned with health and health services;

(D) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health, Education, and Welfare;

(E) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

(F) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest; and

(G) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems.

(5) In carrying out health statistical activities under this part, the Secretary shall consult with, and seek the advice of, the Committee and other appropriate professional advisory groups.



## INTERNATIONAL COOPERATION

42 U.S.C. 2421

SEC. 307. (a) For the purpose of advancing the status of the health sciences in the United States (and thereby the health of the American people), the Secretary may participate with other countries in cooperative endeavors in biomedical research and the health services research and statistical activities authorized by sections 304, 305, and 306.

(b) In connection with the cooperative endeavors authorized by subsection (a), the Secretary may—

(1) make such use of resources offered by participating foreign countries as he may find necessary and appropriate;

(2) establish and maintain fellowships in the United States and in participating foreign countries;

(3) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining the fellowships authorized by paragraph (2);

(4) make grants or loans of equipment and materials, for use by public or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

(5) participate and otherwise cooperate in any international meetings, conferences, or other activities concerned with biomedical research, health services research, or health statistics;

(6) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of biomedical research, health services research, and health statistical activities, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently; and

(7) procure, in accordance with section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants.

The Secretary may not, in the exercise of his authority under this section, provide financial assistance for the construction of any facility in any foreign country.

GENERAL PROVISIONS RESPECTING SECTIONS 304, 305,  
306, AND 307

SEC. 308. (a) (1) Not later than December 1 of each year, the Secretary shall make a report to Congress respecting (A) the administration of sections 304 through 307 during the preceding fiscal year, and (B) the current state and progress of health services research and health statistics. 42 U.S.C. 242m

(2) The Secretary, acting through the National Center for Health Services Research and the National Center for Health Statistics, shall assemble and submit to the President and the Congress not later than September 1 of each year the following reports:

(A) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 306(b) (1) (G).

(B) A report on health, resources. Such report shall include a description and analysis, by geographical area, of the statistics collected under section 306(b) (1) (E).

(C) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 306(b) (1) (F).

(D) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 306(b) (1) (A).

(3) The Office of Management and Budget may review any report required by paragraph (1) or (2) of this subsection before its submission to Congress, but the Office may not revise any such report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting any such report.

(b) (1) No grant or contract may be made under section 304, 305, 306, or 307 unless an application therefor has been submitted to the Secretary in such form and manner, and containing such information, as the Secretary may by regulation prescribe.

(2) Each application submitted for a grant or contract under section 304 or 305, in an amount exceeding \$35,000 of direct costs and for a health services research, evaluation, or demonstration project, shall be submitted by the Secretary for review for scientific merit to a panel of experts appointed by him from persons who are not officers or employees of the United States and who possess qualifications relevant to the project for which the application was made. A panel to which an application is sub-

mitted under this paragraph shall report its findings and recommendations respecting the application to the Secretary in such form and manner as the Secretary shall be regulation prescribe.

(3) If an application is submitted under section 304, 305, or 306 for a grant or contract for a project for which a grant or contract may be made or entered into under another provision of this Act, such application may not be approved under section 304, 305, or 306 and funds appropriated under this section may not be obligated for such grant or contract. The applicant who submitted such application shall be notified of the other provision (or provisions) of this Act under which such application may be submitted.

(c) The aggregate number of grants and contracts made or entered into under sections 304 and 305 for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed twenty; and the aggregate amount of funds obligated under grants and contracts under such sections for any fiscal year respecting a particular means of delivery of health services or another particular aspect of health services may not exceed \$5,000,000.

(d) No information obtained in the course of activities undertaken or supported under section 304, 305, 306, or 307 may be used for any purpose other than the purpose for which it was supplied unless authorized under regulations of the Secretary; and (1) in the case of information obtained in the course of health statistical activities under section 304 or 306, such information may not be published or released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form, and (2) in the case of information obtained in the course of health services research, evaluations, or demonstrations under section 304 or 305, such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

(e) (1) Payments of any grant or under any contract under section 304, 305, 306, or 307 may be made in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary deems necessary to carry out the purposes of such section.

(2) The amounts otherwise payable to any person under a grant or contract made under section 304, 305, 306, or 307 shall be reduced by—



(A) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

(B) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services, but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

(f) Contracts may be entered into under section 304, 305, or 306 without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(g) (1) The Secretary shall—

(A) publish, make available and disseminate, promptly in understandable form and on as broad a basis as practicable, the results of health services research, demonstrations, and evaluations undertaken and supported under sections 304 and 305;

(B) make available to the public data developed in such research, demonstrations, and evaluations; and

(C) provide indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on health services research, demonstrations, and evaluations in health care delivery to public and private entities and individuals engaged in the improvement of health care delivery and the general public; and undertake programs to develop new or improved methods for making such information available.

Except as provided in subsection (d), the Secretary may not restrict the publication and dissemination of data from, and results of projects undertaken by, centers supported under section 305(d).

(2) The Secretary shall (A) take such action as may be necessary to assure that statistics developed under sections 304, 305, and 306 are of high quality, timely, comprehensive as well as specific, standardized, and adequately analyzed and indexed, and (B) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

(h) (1) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of section 304, 305, or 306, a grant or contract under section 304, 305, or 306 with respect to any project for construction of a facility or for acquisition of equipment may not provide

for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, evaluation, or demonstration purposes.

(2) Laborers and mechanics employed by contractors and subcontractors in the construction of such a facility shall be paid wages at rates not less than those prevailing on similar work in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 267a—267a-5, known as the Davis-Bacon Act) ; and the Secretary of Labor shall have with respect to any labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(3) Such grants and contracts shall be subject to such additional requirements as the Secretary may by regulation prescribe.

(i)(1) For health service research, evaluation, and demonstration activities undertaken or supported under section 304 or 305, there are authorized to be appropriated \$65,200,000 for the fiscal year ending June 30, 1975, \$80,000,000 for the fiscal year ending June 30, 1976, and \$28,600,000 for the fiscal year ending September 30, 1978. Of the funds appropriated under this paragraph for any fiscal year, not less than 25 per centum of such funds shall be made available only for health services research, evaluation, and demonstration activities directly undertaken by the Secretary under such section.

(2) For health statistical activities undertaken or supported under section 304 or 306, there are authorized to be appropriated \$30,000,000 for the fiscal year ending June 30, 1975, \$30,000,000 for the fiscal year ending June 30, 1976, and \$33,600,000 for the fiscal year ending September 30, 1978.

#### HEALTH CONFERENCES

42 U.S.C. 242n

SEC. 309. A conference of the health authorities in and among the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend.

## HEALTH EDUCATION AND INFORMATION

SEC. 310. From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions concerned with health services. 42 U.S.C. 242o

## PART B—FEDERAL-STATE COOPERATION

## IN GENERAL

SEC. 311. (a) The Secretary is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this Act which such authorities may be able and willing to provide. The Secretary shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 314, and shall advise the several States on matters relating to the preservation and improvement of the public health. 42 U.S.C. 243

(b) The Secretary shall encourage cooperative activities between the States with respect to comprehensive and continuing planning as to their current and future health needs, the establishment and maintenance of adequate public health services, and otherwise carrying out the purposes of section 314. The Secretary is also authorized to train personnel for State and local health work. The Secretary may charge only private entities reasonable fees for the training of their personnel under the preceding sentence.

(c) (1) The Secretary is authorized to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any disease or condition referred to in section 317(f) and to meet other health emergencies or problems involving or resulting from disasters or any such disease. The Secretary may enter into agreements providing for the cooperative planning between the Service and public and private community health programs and agencies to cope with health problems (including epidemics and health emergencies) resulting from disasters or any disease or condition referred to in section 317(f).

(2) The Secretary may, at the request of the appropriate State or local authority, extend temporary (not



in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for assistance provided under this paragraph as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation for the Service for the year in which such reimbursement is received.

TRAINEESHIPS FOR PROFESSIONAL PUBLIC HEALTH  
PERSONNEL

42 U.S.C. 244-1

SEC. 312.<sup>1</sup> (a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the next twelve fiscal years, such sums as the Congress may determine, but not to exceed \$4,500,000 for the fiscal year ending June 30, 1965, \$7,000,000 for the fiscal year ending June 30, 1966, \$8,000,000 for the fiscal year ending June 30, 1967, \$10,000,000 each for the fiscal year ending June 30, 1968, and the two succeeding fiscal years, \$14,000,000 for the fiscal year ending June 30, 1971, \$16,000,000 for the fiscal year ending June 30, 1972, \$18,000,000 for the fiscal year ending June 30, 1973, \$10,300,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$9,900,000 for the fiscal year ending September 30, 1977 to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel.

(b) Traineeships under this section may be awarded by the Secretary either (1) directly to individuals whose applications for admission have been accepted by the public or other nonprofit institutions providing the training, or (2) through grants to such institutions.

(c) Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments to institutions may be used only for traineeships, and payments under this section with respect to any traineeship shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainee.

(d) The Secretary shall appoint an expert advisory committee, composed of persons representative of the principal health specialties in the fields of public health administration and training, to advise him in connection with the administration of this section and section 313 including the development of program standards and policies and including, in the case of section 313, certifica-

<sup>1</sup> These sections repealed by Sec. 503 of P.L. 94-484, effective October 1, 1977.

tion to the Secretary of projects which it has reviewed and approved.

(e) Except as otherwise provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel or curriculum of any training institution.

#### PROJECT GRANTS FOR GRADUATE TRAINING IN PUBLIC HEALTH

SEC. 313.<sup>1</sup> (a) In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are hereby authorized to be appropriated not to exceed \$2,000,000 for each fiscal year in the period beginning July 1, 1960, and ending June 30, 1964, \$2,500,000 for the fiscal year ending June 30, 1965, \$4,000,000 for the fiscal year ending June 30, 1966, \$5,000,000 for the fiscal year ending June 30, 1967, \$7,000,000 for the fiscal year ending June 30, 1968, \$9,000,000 for the fiscal year ending June 30, 1969, \$8,500,000 for the fiscal year ending June 30, 1970, \$14,000,000 for the fiscal year ending June 30, 1971, \$15,000,000 for the fiscal year ending June 30, 1972, \$16,000,000 for the fiscal year ending June 30, 1973, \$6,500,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$6,000,000 for the fiscal year ending September 1977. 42 U.S.C. 245a

(b) Grants to institutions under subsection (a) of this section may be made only for those projects which are recommended by the advisory committee appointed pursuant to section 312(d). Any grant for a project made from an appropriation under this section for any fiscal year may include such amounts for carrying out such projects during succeeding years. Payment pursuant to such grants may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with representatives of such institutions.

(c) There are also authorized to be appropriated \$7,000,000 for the fiscal year ending June 30, 1970, \$9,000,000 for the fiscal year ending June 30, 1971, \$12,000,000 for the fiscal year ending June 30, 1972, \$15,000,000 for the fiscal year ending June 30, 1973, \$6,500,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$6,400,000 for the fiscal year ending September 30, 1977 to enable the Secretary to make grants, under such terms and conditions

<sup>1</sup> These sections repealed by Sec. 503 of P.L. 94-484, effective October 1, 1977.

as may be prescribed by regulations, for provision, in public or nonprofit private schools of public health accredited by a body or bodies recognized by the Secretary, of comprehensive professional training, specialized consultative services, and technical assistance in the fields of public health and in the administration of State or local public health programs, except that in allocating funds made available under this subsection among such schools of public health, the Secretary shall give primary consideration to the number of federally sponsored students attending each such school.

**GRANTS FOR COMPREHENSIVE HEALTH PLANNING AND PUBLIC  
HEALTH SERVICES**

**Grants to States for Comprehensive State Health  
Planning**

42 U.S.C. 246

SEC. 314.<sup>1</sup> (a) (1) **AUTHORIZATION.**—In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to States which have submitted, and had approved by the Secretary, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated \$2,500,000 for the fiscal year ending June 30, 1967, \$7,000,000 for the fiscal year ending June 30, 1968, \$10,000,000 for the fiscal year ending June 30, 1969, \$15,000,000 for the fiscal year ending June 30, 1970, \$15,000,000 for the fiscal year ending June 30, 1971, \$17,000,000 for the fiscal year ending June 30, 1972, \$20,000,000 for the fiscal year ending June 30, 1973, and \$10,000,000 for the fiscal year ending June 30, 1974.

(2) **STATE PLANS FOR COMPREHENSIVE STATE HEALTH PLANNING.**—In order to be approved for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include representatives of Federal, State, and local agencies (including as an ex officio member, if there is located in such State one or more hospitals or other health

<sup>1</sup> This subsection has been superseded by title XV.



care facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such council as the representative of the hospitals or other health care facilities of such Administration which are located in such State) and nongovernmental organizations and groups concerned with health, (including representation of the regional medical program or programs included in whole or in part within the State) and of consumers of health services, to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health services;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to provide for comprehensive State planning for health services (both public and private and including home health care), including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State and including environmental considerations as they relate to public health;

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Secretary that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds;

(F)<sup>1</sup> provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

<sup>1</sup> Sec. 208(a)(3) of P.L. 91-648 (42 U.S.C. 4728) transferred to the U.S. Civil Service Commission all functions, powers, and duties of the Secretary under any law applicable to a grant program which requires the establishment and maintenance of personnel standards on a merit basis with respect to the program.

(G) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(H) provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(I) effective July 1, 1968, (i) provide for assisting each health care facility in the State to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i)) of each health care facility in the State and recommended appropriate modification thereof;

(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; and

(K) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection.

(3) (A) STATE ALLOTMENTS.—From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Secretary determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallocation by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such

a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amount so reallocated to a State from funds appropriated pursuant to this subsection for a fiscal year shall be deemed part of its allotment under subparagraph (A) for such fiscal year.

(4) PAYMENTS TO STATES.—From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Secretary of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The "Federal share" for any State for purposes of this subsection shall be all, or such part as the Secretary may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum, of such cost.

### Project Grants for Areawide Health Planning

<sup>1</sup> (b) (1) (A) The Secretary is authorized, during the period beginning July 1, 1966, and ending June 30, 1974, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a), project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such services; and including the provision of such services through home health care; except that in the case of project grants made in any State prior to July 1,

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<sup>1</sup> This subsection has been superseded by title XV.



1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. No grant may be made under this subsection after June 30, 1970, to any agency or organization to develop or revise health plans for an area unless the Secretary determines that such agency or organization provides means for appropriate representation of the interests of the hospitals, other health care facilities, and practicing physicians serving such area, and the general public. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1967, \$7,500,000 for the fiscal year ending June 30, 1968, \$10,000,000 for the fiscal year ending June 30, 1969, \$15,000,000 for the fiscal year ending June 30, 1970, \$20,000,000 for the fiscal year ending June 30, 1971, \$30,000,000 for the fiscal year ending June 30, 1972, \$40,000,000 for the fiscal year ending June 30, 1973, and \$25,100,000 for the fiscal year ending June 30, 1974.

(B) Project grants may be made by the Secretary under subparagraph (A) to the State agency administering or supervising the administration of the State plan approved under subsection (a) with respect to a particular region or area, but only if (i) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor.

(2) (A) In order to be approved under this subsection, an application for a grant under this subsection must contain or be supported by reasonable assurances that there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council. The membership of such council shall include representatives of public, voluntary, and non-profit private agencies, institutions, and organizations concerned with health (including representatives of the interests of local government of the regional medical program for such area, and of consumers of health services). A majority of the members of such council shall consist of representatives of consumers of health services.

(B) In addition, an application for a grant under this subsection must contain or be supported by reasonable assurances that the areawide health planning agency has made provision for assisting health care facilities in its area to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan which will meet the

needs of the State and the area for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner.

#### Project Grants for Training, Studies, and Demonstrations

(c) The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1974, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated \$1,500,000 for the fiscal year ending June 30, 1967, \$2,500,000 for the fiscal year ending June 30, 1968, \$5,000,000 for the fiscal year ending June 30, 1969, \$7,500,000 for the fiscal year ending June 30, 1970, \$8,000,000 for the fiscal year ending June 30, 1971, \$10,000,000 for the fiscal year ending June 30, 1972, \$12,000,000 for the fiscal year ending June 30, 1973, and \$4,700,000 for the fiscal year ending June 30, 1974.

#### Comprehensive Public Health Services

(d) (1) From allotments made pursuant to paragraph (4), the Secretary shall make grants to State health and mental health authorities to assist in meeting the costs of providing comprehensive public health services.

(2) No grant may be made under paragraph (1) to the State health or mental health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

(A) the comprehensive public health services provided within the State will be provided in accordance with the State plan prepared in accordance with section 1524(c) (2) or the State plan approved under section 314(a), whichever is applicable;

(B) funds received under grants under paragraph (1) will (i) be used to supplement and, to the extent practical, to increase the level of non-Federal funds that would otherwise be made available for the purposes for which the grant funds are provided, and (ii) not be used to supplant such non-Federal funds;

(C) the State health authority, and, with respect to mental health activities, the State mental health authority will—

(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

(ii) from time to time, but not less often than annually, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount of funds obligated in such fiscal year for the provision of each such category of services; and

(iii) make such reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

(D) the State mental health authority will—

(i) establish and carry out a plan which—

(I) is designed to eliminate inappropriate placement in institutions of persons with mental health problems, to insure the availability of appropriate noninstitutional services for such persons, and to improve the quality of care for those with mental health problems for whom institutional care is appropriate; and

(II) shall include fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions described in subclause (I), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees;

(ii) prescribe and provide for the enforcement of minimum standards for the maintenance and operation of mental health programs and facilities (including community mental health centers) with the State; and

(iii) provide for assistance to courts and other public agencies and to appropriate private agencies to facilitate (I) screening by community mental health centers (or, if there are no



such centers, other appropriate entities) of residents of the State who are being considered for inpatient care in a mental health facility to determine if such care is necessary, and (II) provision of followup care by community mental health centers (or if there are no such centers, by other appropriate entities) for residents of the State who have been discharged from mental health facilities.

(3) The Secretary shall review annually the activities undertaken by each State with an approved application to determine if the State complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

(A) that the State for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

(B) that he cannot be assured that the State will comply with the assurances provided with the application under consideration.

(4) For the purpose of determining the total amount of grants that may be made to the State health and mental authorities of each State, the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the population of the States available from the Department of Commerce.

(5) The Secretary shall determine the amount of any grant under paragraph (1); but the amount of grants made in any fiscal year to the public and mental health authorities of any State may not exceed the amount of the State's allotment available for obligation in such fiscal year. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(6) In any fiscal year—

(A) not less than 15 per centum of a State's allotment under paragraph (4) shall be made available only for grants under paragraph (1) to the State's mental health authority for the provision of mental health services; and

(B) not less than—

(i) 70 per centum of the amount of a State's allotment which is made available for grants to the mental health authority, and

(ii) 70 per centum of the remainder of the State's allotment,

shall be available only for the provision services in communities of the State.

(7) (A) For payments under grants under paragraph (1) there are authorized to be appropriated \$100,000,000 for fiscal year 1976, \$110,000,000 for the fiscal year ending September 30, 1977, and \$106,750,000 for the fiscal year ending September 30, 1978.

(B) For payments under grants under paragraph (1) for establishing and maintaining programs, described in applications under paragraph (2), for the screening, detection, diagnosis, prevention, and referral for treatment of hypertension there are authorized to be appropriated \$15,000,000 for fiscal year 1976, \$15,000,000 for the fiscal year ending September 30, 1977, and \$12,680,000 for the fiscal year ending September 30, 1978.

(e) [Repealed.]

### Interchange of Personnel With States

(f)<sup>1</sup> (1) For the purpose of this subsection, the term "State" means a State or a political subdivision of a State, or any agency of either of the foregoing engaged in any activities related to health or designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a); the term "Secretary" means (except when used in paragraph (3)(D)) the Secretary of Health, Education, and Welfare; and the term "Department" means the Department of Health, Education, and Welfare.

(2) The Secretary is authorized, through agreements or otherwise, to arrange for assignment of officers and employees of States to the Department and assignment to States of officers and employees in the Department engaged in work related to health, for work which the Secretary determines will aid the Department in more effective discharge of its responsibilities in the field of health as authorized by law, including cooperation with States and the provision of technical or other assistance. The period of assignment of any officer or employee under an arrangement shall not exceed two years.

(3) (A) Officers and employees in the Department assigned to any State pursuant to this subsection shall be considered, during such assignment, to be (i) on detail to a regular work assignment in the Department, or (ii) on leave without pay from their positions in the Department.

(B) Persons considered to be so detailed shall remain as officers or employees, as the case may be, in the Department for all purposes, except that the supervision of their duties during the period of detail may be governed by agreement between the Department and the State involved.

(C) In the case of persons so assigned and on leave without pay—

<sup>1</sup> Sec. 403 of P.L. 91-648 (Intergovernmental Personnel Act of 1970) repealed sec. 314(f) except with respect to the assignment of commissioned officers of the Public Health Service.

(i) if the rate of compensation (including allowances) for their employment by the State is less than the rate of compensation (including allowances) they would be receiving had they continued in their regular assignment in the Department, they may receive supplemental salary payments from the Department in the amount considered by the Secretary to be justified, but not at a rate in excess of the difference between the State rate and the Department rate; and

(ii) they may be granted annual leave and sick leave to the extent authorized by law, but only in circumstances considered by the Secretary to justify approval of such leave.

Such officers and employees on leave without pay shall, notwithstanding any other provision of law, be entitled—

(iii) to continuation of their insurance under the Federal Employees' Group Life Insurance Act of 1954,<sup>1</sup> and coverage under the Federal Employees Health Benefits Act of 1959,<sup>2</sup> so long as the Department continues to collect the employee's contribution from the officer or employee involved and to transmit for timely deposit into the funds created under such Acts the amount of the employee's contributions and the Government's contribution from appropriations of the Department; and

(iv) (I) in the case of commissioned officers of the Service to have their service during their assignment treated as provided in section 214(d) for such officers on leave without pay, or (II) in the case of other officers and employees in the Department, to credit the period of their assignment under the arrangement under this subsection toward periodic or longevity step increases and for retention and leave accrual purposes, and, upon payment into the civil service retirement and disability fund of the percentage of their State salary, and of their supplemental salary payments, if any, which would have been deducted from a like Federal salary for the period of such assignment and payment by the Secretary into such fund of the amount which would have been payable by him during the period of such assignment with respect to a like Federal salary, to treat (notwithstanding the provisions of the Independent Offices Appropriations Act, 1959, under the head "Civil Service Retirement and Disability Fund") their service during such period as service within the meaning of the Civil Service Retirement Act; except that no officer or employee or his beneficiary may receive any benefits under the Civil Service Retirement

<sup>1</sup> Codified to chapter 87 of title 5, United States Code.

<sup>2</sup> Codified to chapter 89 of title 5, United States Code.



Act,<sup>1</sup> the Federal Employees Health Benefits Act of 1959, or the Federal Employees' Group Life Insurance Act of 1954, based on service during an assignment hereunder for which the officer or employee or (if he dies without making such election) his beneficiary elects to receive benefits, under any State retirement or insurance law or program, which the Civil Service Commission determines to be similar. The Department shall deposit currently in the funds created under the Federal Employees' Group Life Insurance Act of 1954, the Federal Employees Health Benefits Act of 1959, and the civil service retirement and disability fund, respectively, the amount of the Government's contribution under these Acts on account of service with respect to which employee contributions are collected as provided in subparagraph (iii) and the amount of the Government's contribution under the Civil Service Retirement Act on account of service with respect to which payments (of the amount which would have been deducted under that Act) referred to in subparagraph (iv) are made to such civil service retirement and disability fund.

(D) Any such officer or employee on leave without pay (other than a commissioned officer of the Service) who suffers disability or death as a result of personal injury sustained while in the performance of his duty during an assignment hereunder, shall be treated, for the purposes of the Federal Employees' Compensation Act,<sup>2</sup> as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(4) Assignment of any officer or employee in the Department to a State under this subsection may be made with or without reimbursement by the State for the compensation (or supplementary compensation), travel and transportation expenses (to or from the place of assignment), and allowances, or any part thereof, of such officer or employee during the period of assignment, and any such reimbursement shall be credited to the appropriation utilized for paying such compensation, travel or transportation expenses, or allowances.

(5) Appropriations to the Department shall be available, in accordance with the standardized Govern-

<sup>1</sup> Codified to chapter 83 of title 5, United States Code.

<sup>2</sup> Codified to chapter 81 of title 5, United States Code.

ment travel regulations or, with respect to commissioned officers of the Service, the joint travel regulations, for the expenses of travel of officers and employees assigned to States under an arrangement under this subsection on either a detail or leave-without-pay basis and, in accordance with applicable law, orders, and regulations, for expenses of transportation of their immediate families and expenses of transportation of their household goods and personal effects in connection with the travel of such officers and employees to the location of their posts of assignment and their return to their official stations.

(6) \* \* \*

(7) \* \* \*

(8) The appropriations to the Department shall be available, in accordance with the standardized Government travel regulations, during the period of assignment and in the case of travel to and from their places of assignment or appointment, for the payment of expenses of travel of persons assigned to, or given appointments by, the Department under an arrangement under this subsection.

(9) All arrangements under this subsection for assignment of officers or employees in the Department to States or for assignment of officers or employees of States to the Department shall be made in accordance with regulations of the Secretary.

#### General

(g)(1) All regulations and amendments thereto with respect to grants to States under subsection (a) shall be made after consultation with a conference of the State health planning agencies designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a). All regulations and amendments thereto with respect to grants to States under subsection (d) shall be made after consultation with a conference of State health authorities and, in the case of regulations and amendments which relate to or in any way affect grants for services or other activities in the field of mental health, the State mental health authorities. Insofar as practicable, the Secretary shall obtain the agreement, prior to the issuance of such regulations or amendments, of the State authorities or agencies with whom such consultation is required.

(2) The Secretary, at the request of any recipient of a grant under this section, may reduce the payments to such recipient by the fair market value of any equipment or supplies furnished to such recipient and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when such furnishing or such detail, as the case may be, is for the convenience of

and at the request of such recipient and for the purpose of carrying out the State plan or the project with respect to which the grant under this section is made. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall, for purposes of determining the Federal share under subsection (a) or (d), be deemed to have been paid to the State.

(3) Whenever the Secretary, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of a State or a State health planning agency designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a), finds that, with respect to money paid to the State out of appropriations under subsection (a) or (d), there is a failure to comply substantially with either—

(A) the applicable provisions of this section;

(B) the State plan submitted under such subsection;

or

(C) applicable regulations under this section;

the Secretary shall notify such State health authority, mental health authority, or health planning agency, as the case may be, that further payments will not be made to the State from appropriations under such subsection (or in his discretion that further payments will not be made to the State from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such State from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(4) For the purposes of this section—

(A) The term “nonprofit” as applied to any private agency, institution, or organization means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) The term “State” includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia and the term “United States” means the fifty States and the District of Columbia.

SEC. 315. [Repealed.]

SEC. 316. [Repealed.]

#### DISEASE CONTROL PROGRAMS

42 U.S.C. 247b

SEC. 317. (a) The Secretary may make grants to States and, in consultation with State health authorities, to public entities to assist them in meeting the costs of disease control programs.



(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information as the Secretary shall by regulation prescribe and shall meet the requirements of paragraph (2).

(2) An application for a grant under subsection (a) shall—

(A) set forth with particularity the objectives (and their priorities, as determined in accordance with such regulations as the Secretary may prescribe) of the applicant for each of the disease control programs it proposes to conduct with assistance from a grant under subsection (a);

(B) contain assurances satisfactory to the Secretary that, in the year during which the grant applied for would be available, the applicant will conduct such programs as may be necessary (i) to develop an awareness in those persons in the area served by the applicant who are most susceptible to the diseases or conditions referred to in subsection (f) of appropriate preventive behavior and measures (including immunizations) and diagnostic procedures for such diseases, and (ii) to facilitate their access to such measures and procedures; and

(C) provide for the reporting to the Secretary of such information as he may require concerning (i) the problems, in the area served by the applicant, which relate to any disease or condition referred to in subsection (f), and (ii) the disease control programs of the applicant for which a grant is applied for.

In considering such an application the Secretary shall take into account the relative extent, in the area served by the applicant, of the problems which relate to one or more of the diseases or conditions referred to in subsection (f) and the extent to which the applicant's programs are designed to eliminate or reduce such problems. The Secretary shall give special consideration to applications for programs which (A) will increase to at least 80 per centum the immunization rates of any population identified as not having received, or as having failed to secure, the generally recognized disease immunizations, and (B) to the fullest extent practicable, will cooperate and use public and nonprofit private entities and volunteers. The Secretary shall give priority to applications submitted for disease control programs for communicable diseases.

(c)(1) Each grant under subsection (a) shall be made for disease control program costs in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made.

(2) Payments under grants under subsection (a) may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of

underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

(3) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

(A) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the grant recipient, and

(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out a program with respect to which the recipient's grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the recipient.

(d) (1) The Secretary may conduct, and may make grants to and enter into contracts with public and non-profit private entities for the conduct of—

(A) training for the administration and operation of disease prevention and control programs, and

(B) demonstrations and evaluations of such programs.

(2) No grant may be made or contract entered into under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(e) The Secretary shall coordinate activities under this section respecting disease control programs with activities under other sections of this Act respecting such programs.

(f) For purposes of this section, the term "disease control program" means a program which is designed and conducted so as to contribute to national protection against diseases or conditions of national significance which are amenable to reduction, including tuberculosis, rubella, measles, poliomyelitis, diphtheria, tetanus, pertussis, mumps, and other communicable diseases (other than venereal diseases), and arthritis, diabetes, diseases borne by rodents, hypertension, pulmonary diseases, cardiovascular diseases, and Rh disease. Such term also in-

cludes vaccination programs, laboratory services, studies to determine the disease control needs of the States and the means of best meeting such needs, the provision of information and education services respecting disease control, and programs to encourage behavior which will prevent disease and encourage the use of preventive measures and diagnostic procedures. Such term also includes any program or project for rodent control for which a grant was made under section 314(e) for the fiscal year ending June 30, 1975.

(g) (1) (A) For the purpose of grants under subsection (a) for disease control programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated \$9,000,000 for fiscal year 1976, \$17,500,000 for fiscal year 1977, and \$23,000,000 for fiscal year 1978.

(B) For the purpose of grants under subsection (a) for disease control programs for diseases borne by rodents there are authorized to be appropriated \$13,500,000 for fiscal year 1976, \$14,000,000 for fiscal year 1977, and \$14,500,000 for fiscal year 1978.

(C) For the purpose of grants under subsection (a) for disease control programs, other than programs for which appropriations are authorized under subparagraph (A) or (B), and for the purpose of grants and contracts under subsection (d), there are authorized to be appropriated \$4,000,000 for fiscal year 1976, \$4,500,000 for fiscal year 1977, and \$5,000,000 for fiscal year 1978.

(D) Not to exceed 15 per centum of the amount appropriated for any fiscal year under any of the preceding subparagraphs of this paragraph may be used by the Secretary for grants and contracts for such fiscal year for programs for which appropriations are authorized under any one or more of the other subparagraphs of this paragraph if the Secretary determines that such use will better carry out the purpose of this section, and reports to the appropriate committees of Congress at least thirty days before making such use of such amount his determination and the reasons therefor.

(2) Except as provided in section 318, no funds appropriated under any provision of this Act other than paragraph (1) of this subsection may be used to make grants in any fiscal year for disease control programs if (A) grants for such programs are authorized by subsection (a), and (B) all the funds authorized to be appropriated under this subsection for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

(h) The Secretary shall submit to the President for submission to the Congress on January 1 of each year (1) a report (A) on the effectiveness of all Federal and other public and private activities in controlling the diseases



and conditions referred to in subsection (f), (B) on the extent of the problems presented by such diseases, (C) on the effectiveness of the activities, assisted under grants and contracts under this section, in controlling such diseases, and (D) setting forth a plan for the coming year for the control of such diseases; and (2) a report (A) on the immune status of the population of the United States, and (B) identifying, by area, population group, and other categories, deficiencies in the immune status of such population.

(i) (1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this Act) and which are available for the conduct of disease control programs from being used in connection with programs assisted through grants under subsection (a).

(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a disease control program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

#### PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

42 U.S.C. 247c

SEC. 318. (a) The Secretary may provide technical assistance to appropriate public and non-profit private entities and to scientific institutions for their research, training, and public health programs for the prevention and control of venereal disease.

(b) (1) The Secretary is authorized to make grants to States, political subdivisions of States, and any other public or nonprofit private entity for projects for the conduct of research, demonstrations, education, and training for the prevention and control of venereal disease.

(2) For the purpose of carrying out this subsection, there are authorized to be appropriated \$5,000,000 for fiscal year 1976, \$6,600,000 for fiscal year 1977, and \$7,600,000 for fiscal year 1978.

(c) (1) The Secretary is authorized to make project grants to States and, in consultation with the State health authority, to political subdivisions of States, for—

(A) venereal disease surveillance activities, including the reporting, screening, and followup of diagnostic tests for, and diagnosed cases of, venereal disease;

(B) casefinding and case followup activities respecting venereal disease, including contact tracing of infectious cases of venereal disease and routine testing, including laboratory tests and followup systems;

(C) interstate epidemiologic referral and follow-up activities respecting venereal disease;

(D) professional and public venereal disease education activities; and

(E) such special studies or demonstrations to evaluate or test venereal disease prevention and control strategies and activities as may be prescribed by the Secretary.

(2) For the purpose of carrying out this section there is authorized to be appropriated \$32,000,000 for fiscal year 1976, \$41,500,000 for fiscal year 1977, and \$43,500,000 for fiscal year 1978.

(d) (1) Grants made under subsection (b) or (c) of this section shall be made on such terms and conditions as the Secretary finds necessary to carry out the purposes of such subsection, and payments under any such grants shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary.

(2) Each recipient of a grant under this section shall keep such records as the Secretary shall prescribe including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant was given or used and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(3) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of grants under this section that are pertinent to such grants.

(4) The Secretary, at the request of a recipient of a grant under this section, may reduce such grant by the fair market value of any supplies or equipment furnished to such recipient and by the amount of pay, allowances, travel expenses, and any other costs in connection with the detail of an officer or employee of the United States to the recipient when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out the program with respect to which the grant under this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies, equipment, or personal services on which the reduction of such grant is based.

(5) All information obtained in connection with the examination, care, or treatment of any individual under any program which is being carried out with a grant made under this section shall not, without such individ-

ual's consent, be disclosed except as may be necessary to provide service to him or as may be required by a law of a State or political subdivision of a State. Information derived from any such program may be disclosed—

(A) in summary, statistical, or other form, or

(B) for clinical or research purposes, but only if the identity of the individuals diagnosed or provided care or treatment under such program is not disclosed.

(e) Except as provided in section 317(g)(2), no funds appropriated under any provision of this Act other than this section may be used to make grants in any fiscal year for programs or projects respecting venereal disease if (1) grants for such programs or projects are authorized by this section, and (2) all the funds authorized to be appropriated under this section for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

(f) Not to exceed 50 per centum of the amounts appropriated for any fiscal year under subsections (b) and (c) of this section may be used by the Secretary for grants for such fiscal year under section 317.

(g) Nothing in this section shall be construed to require any State or any political subdivision of a State to have a venereal disease program which would require any person, who objects to any treatment provided under such a program, to be treated under such a program.

(h) For purposes of this section and section 317, the term "venereal disease" means gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amenable to control with assistance provided under this section and is of national significance.

#### MIGRANT HEALTH

SEC. 319. (a) For purposes of this section:

42 U.S.C. 247d

(1) The term "migrant health center" means an entity which either through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities provides—

(A) primary health services,

(B) as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services,

(C) referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services,

(D) environmental health services, including, as may be appropriate for particular centers, the detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field



sanitation, housing, and other environmental factors related to health,

(E) as may be appropriate for particular centers, infections and parasitic disease screening and control,

(F) as may be appropriate for particular centers, accident prevention programs, including prevention of excessive pesticide exposure, and

(G) information on the availability and proper use of health services,

for migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, within the area it serves (referred to in this section as a "catchment area").

(2) The term "migratory agricultural worker" means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last twenty-four months, and who establishes for the purposes of such employment a temporary abode.

(3) The term "seasonal agricultural workers" means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

(4) The term "agriculture" means farming in all its branches, including—

(A) cultivation and tillage of the soil,

(B) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land, and

(C) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in subparagraphs (B).

(5) The term "high impact area" means a health service area or other area which has not less than six thousand migratory agricultural workers and seasonal agricultural workers residing within its boundaries for more than two months in any calendar year. In computing the number of workers residing in an area, there shall be included as workers the members of the families of such workers.

(6) The term "primary health services" means—

(A) services of physicians and, where feasible, services of physicians' assistants and nurse clinicians;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal

services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care; and

(F) preventive dental services.

(7) The term "supplemental health services" means services which are not included as primary health services and which are—

(A) hospital services;

(B) home health services;

(C) extended care facility services;

(D) rehabilitative services (including physical therapy) and long-term physical medicine;

(E) mental health services;

(F) dental services;

(G) vision services;

(H) allied health services;

(I) pharmaceutical services;

(J) therapeutic radiologic services;

(K) public health services (including nutrition education and social services);

(L) ambulatory surgical services;

(M) health education services; and

(N) services which promote and facilitate optimal use of primary health services and the services referred to in the preceding subparagraphs of this paragraph, including, if a substantial number of the individuals in the population served by a migrant health center are of limited English-speaking ability, the services of outreach workers fluent in the language spoken by a predominant number of such individuals.

(b) (1) The Secretary shall assign to high impact areas and any other areas (where appropriate) priorities for the provision of assistance under this section to projects and programs in such areas. The highest priorities for such assistance shall be assigned to areas in which reside the greatest number of migratory agricultural workers and the members of their families for the longest period of time.

(2) No application for a grant under subsection (c) or (d) for a project in an area which has no migratory agricultural workers may be approved unless grants have been provided for all approved applications under such subsections for projects in areas with migratory agricultural workers.

(c) (1) (A) The Secretary may, in accordance with the priorities assigned under subsection (b) (1), make grants to public and nonprofit private entities for projects to plan and develop migrant health centers which will serve migratory agricultural workers, seasonal agricultural

workers, and the members of the families of such migratory and seasonal workers, in high impact areas. A project for which a grant may be made under this subparagraph may include the cost of the acquisition and modernization of existing buildings (including the costs of amortizing the principal of, and paying the interest on loans) and the costs of providing training related to the management of migrant health center programs, and shall include—

(i) an assessment of the need that the workers (and the members of the families of such workers) proposed to be served by the migrant health center for which the project is undertaken have for primary health services, supplemental health services, and environmental health services;

(ii) the design of a migrant health center program for such workers and the members of their families, based on such assessment;

(iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project; and

(iv) initiation and encouragement of continuing community involvement in the development and operation of the project.

(B) The Secretary may make grants to or enter into contracts with public and nonprofit private entities for projects to plan and develop programs in areas in which no migrant health center exists and in which not more than six thousand migratory agricultural workers and their families reside for more than two months—

(i) for the provision of emergency care to migratory agricultural workers, seasonal agricultural workers, and the members of families of such migratory and seasonal workers;

(ii) for the provision of primary care (as defined in regulations of the Secretary) for such workers and the members of their families;

(iii) for the development of arrangements with existing facilities to provide primary health services (not included as primary care as defined under regulations under clause (ii)) to such workers and the members of their families; or

(iv) which otherwise improve the health of such workers and their families.

Any such program may include the acquisition and modernization of existing buildings and providing training related to the management of programs assisted under this subparagraph.

(2) Not more than two grants may be made under paragraph (1)(A) for the same project, and if a grant or contract is made or entered into under paragraph (1)(B) for a project, no other grant or contract under that paragraph may be made or entered into for the project.



(3) The amount of any grant made under paragraph (1) for any project shall be determined by the Secretary.

(d)(1)(A) The Secretary may, in accordance with priorities assigned under subsection (b)(1), make grants for the cost of operation of public and nonprofit private migrant health centers in high impact areas.

(B) The Secretary may, in accordance with priorities assigned under subsection (b)(1), make grants for the costs of the operation of public and nonprofit entities which intend to become migrant health centers, which provide health services in high impact areas to migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, but with respect to which he is unable to make each of the determinations required by subsection (f)(2). Not more than two grants may be made under this subparagraph for any entity.

(C) The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects for the operation of programs in areas in which no migrant health center exists and in which not more than six thousand migratory agricultural workers and their families reside for more than two months—

(i) for the provision of emergency care to migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers;

(ii) for the provision of primary care (as defined in regulations of the Secretary) for such workers and the members of their families;

(iii) for the development of arrangements with existing facilities to provide primary health services (not included as primary care as defined under regulations under clause (ii)) to such workers and the members of their families; or

(iv) which otherwise improve the health of such workers and the members of their families.

Any such program may include the acquisition and modernization of existing buildings and providing training related to the management of programs assisted under this subparagraph.

(2) The costs for which a grant may be made under paragraph (1)(A) or (1)(B) may include the costs of acquiring and modernizing existing buildings (including the costs of amortizing the principal of, and paying the interest on, loans); and the costs for which a grant or contract may be made under paragraph (1) may include the costs of providing training related to the provision of primary health services, supplemental health services, and environmental health services, and to the management of migrant health center programs.

(3) The amount of any grant made under paragraph (1) shall be determined by the Secretary.

(e) The Secretary may enter into contracts with public and private entities to—

(1) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migrant labor camps and applicable Federal and State pesticide control standards; and

(2) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, pesticide hazards, and other environmental health hazards to which migratory agricultural workers, seasonal agricultural workers, and members of their families are exposed.

(f) (1) No grant may be made under subsection (c) or (d) and no contract may be entered into under subsection (c) (1) (B), (d) (1) (C), or (e) unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. An application for a grant or contract which will cover the costs of modernizing a building shall include, in addition to other information required by the Secretary—

(A) a description of the site of the building,

(B) plans and specifications for its modernization, and

(C) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the modernization of the building will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards referred to in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(2) The Secretary may not approve an application for a grant under subsection (d) (1) (A) unless the Secretary determines that the entity for which the application is submitted is a migrant health center (within the meaning of subsection (a) (1)) and that—

(A) the primary health services of the center will be available and accessible in the center's catchment area promptly, as appropriate, and in a manner which assures continuity;

(B) the center will have organizational arrangements, established in accordance with regulations of the Secretary, for (i) an ongoing quality assurance

program (including utilization and peer review systems) respecting the center's services, and (ii) maintaining the confidentiality of patient records;

(C) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(D) the center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(E) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

(F) the center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such schedules; and (II) to collect reimbursement for health services to persons described in subparagraph (E) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as he may require to determine compliance with this subparagraph;

(G) the center has established a governing board which (i) is composed of individuals a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center, and (ii) establishes general policies for the center (including the selection of services to be provided by the center and a schedule of hours during which services will be provided), approves the center's annual budget, and approves the selection of a director for the center;



(H) the center has developed, in accordance with regulations of the Secretary, (i) an overall plan and budget that meets the requirements of section 1861(z) of the Social Security Act, and (ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to (I) the costs of its operations, (II) the patterns of use of its services, (III) the availability, accessibility, and acceptability of its services, and (IV) such other matters relating to operations of the applicant as the Secretary may, by regulation, require;

(I) the center will review periodically its catchment area to (i) insure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the migratory agricultural workers, seasonal agricultural workers, and the members of the families of such migratory and seasonal workers, in the area promptly and as appropriate, (ii) insure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (iii) insure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation; and

(J) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(3) In considering applications for grants and contracts under subsection (c) or (d) (1) (C), the Secretary shall give priority to applications submitted by community-based organizations which are representative of the populations to be served through the projects, programs, or centers to be assisted by such grants or contracts.

(4) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(g) The Secretary may provide (either through the Department of Health, Education, and Welfare or by

grant or contract) all necessary technical and other non-financial assistance (including fiscal and program management assistance and training in such management) to any migrant health center or to any public or private nonprofit entity to assist it in developing plans for, and in operating as, a migrant health center, and in meeting the requirements of subsection (f) (2).

(h) (1) There are authorized to be appropriated for payments pursuant to grants and contracts under subsection (c) (1) \$4,000,000 for fiscal year 1976, \$4,000,000 for the fiscal year ending September 30, 1977, and \$2,950,000 for the fiscal year ending September 30, 1978. Of the funds appropriated under this paragraph for fiscal year 1976, not more than 30 per centum of such funds may be made available for grants and contracts under subsection (c) (1) (B), and of the funds appropriated under this paragraph for each of the next two fiscal years, not more than 25 per centum of such funds may be made available for grants and contracts under such subsection.

(2) There are authorized to be appropriated for payments pursuant to grants and contracts under subsection (d) (1) (other than for payments under such grants and contracts for the provision of inpatient and outpatient hospital services) and for payments pursuant to contracts under subsection (e) \$30,000,000 for fiscal year 1976, \$35,000,000 for the fiscal year ending September 30, 1977, and \$32,080,000 for the fiscal year ending September 30, 1978. Of the funds appropriated under the first sentence for fiscal year 1976, there shall be made available for grants and contracts under subsection (d) (1) (C) an amount not exceeding the greater of 30 per centum of such funds or 90 per centum of the amount of grants made under this section for the preceding fiscal year for programs described in subsection (d) (1) (C). Of the funds appropriated under the first sentence for fiscal years ending September 30, 1977, and September 30, 1978, there shall be made available for grants and contracts under subsection (d) (1) (C) an amount not exceeding the greater of 25 per centum of such funds or 90 per centum of the amount of grants made under this section for the preceding fiscal year for programs described in subsection (d) (1) (C) which received grants under this section for the fiscal year ending June 30, 1975. Of the funds appropriated under this paragraph for any fiscal year, not more than 10 per centum of such funds may be made available for contracts under subsection (e).

(3) There are authorized to be appropriated for payments under grants and contracts under subsection (d) (1) for the provision of inpatient and outpatient hospital services \$5,000,000 for fiscal year 1976, \$5,000,000 for the fiscal year ending September 30, 1977, and \$4,230,000 for the fiscal year ending September 30, 1978.

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PARTS C AND D OF TITLE III, AS AMENDED  
BY SECTION 407 OF PUBLIC LAW 94-484 AND  
EFFECTIVE OCTOBER 1, 1977

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PART C—HOSPITALS, MEDICAL EXAMINATIONS, AND  
MEDICAL CARE

Subpart I—General Provisions

HOSPITALS

SEC. 321. The Surgeon General, pursuant to regulations, shall—

42 U.S.C. 248

(a) Control, manage, and operate all institutions, hospitals, and stations of the Service, including minor repairs and maintenance, and provide for the care, treatment, and hospitalization of patients, including the furnishing of prosthetic and orthopedic devices, and tobacco; and from time to time with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties;

(b) Provide for the transfer of Public Health Service patients, in the care of attendants where necessary, between hospitals and stations operated by the Service or between such hospitals and stations and other hospitals and stations in which Public Health Service patients may be received, and the payment of expenses of such transfer;

(c) Provide for the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain such articles or by selling them and depositing the money received therefor to the credit of the appropriation from which the materials for making the articles were purchased;

(d) Provide for the disposal of money and effects, in the custody of the hospitals or stations, of deceased patients; and

(e) Provide, to the extent the Surgeon General determines that other public or private funds are not available therefor, for the payment of expenses of preparing and transporting the remains of, or the payment of reasonable burial expenses for, any patient dying in a hospital or station.

CARE AND TREATMENT OF SEAMEN AND CERTAIN  
OTHER PERSONS

42 U.S.C. 249

SEC. 322. (a) The following persons shall be entitled, in accordance with regulations, to medical, surgical, and dental treatment and hospitalization without charge at hospitals and other stations of the Service:

(1) Seamen employed on vessels of the United States registered, enrolled, and licensed under the maritime laws thereof, other than canal boats engaged in the coasting trade;

(2) Seamen employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration;

(3) Seamen, not enlisted or commissioned in the military or naval establishments, who are employed on State school ships or on vessels of the United States Government of more than five tons' burden;

(4) Cadets at State maritime academies or on State training ships;

(5) Seamen on vessels of the Mississippi River Commission and, upon application of their commanding officers, officers and crews of vessels of the Fish and Wildlife Service;

(6) Enrollees in the United States Maritime Service on active duty and members of the Merchant Marine Cadet Corps;

(7) Seamen-trainees while participating in maritime training programs to develop or enhance their employability in the maritime industry; and

(8) Persons who own vessels registered, enrolled, or licensed under the maritime laws of the United States, who are engaged in commercial fishing operations, and who accompany such vessels on such fishing operations, and a substantial part of whose services in connection with such fishing operations are comparable to services performed by seamen employed on such vessel or on vessels engaged in similar operations.

(b) When suitable accommodations are available, seamen on foreign-flag vessels may be given medical, surgical, and dental treatment and hospitalization on application of the master, owner, or agent of the vessel at hospitals and other stations of the Service at rates fixed by regulations. All expenses connected with such treatment, including burial in the event of death, shall be paid by such master, owner, or agent. No such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed to the Collector of Customs.

(c) Any person when detained in accordance with quarantine laws, or, at the request of the Immigration and Naturalization Service, any person detained by that



Service, may be treated and cared for by the Public Health Service.

(d) Persons not entitled to treatment and care at institutions, hospitals, and stations of the Service may, in accordance with regulations of the Surgeon General, be admitted thereto for temporary treatment and care in case of emergency.

(e) Persons entitled to care and treatment under subsection (a) of this section and persons whose care and treatment is authorized by subsection (c) may, in accordance with regulations, receive such care and treatment at the expense of the Service from public or private medical or hospital facilities other than those of the Service, when authorized by the officer in charge of the station at which the application is made.

#### CARE AND TREATMENT OF FEDERAL PRISONERS

SEC. 323. The Service shall supervise and furnish medical treatment and other necessary medical, psychiatric, and related technical and scientific services, authorized by the Act of May 13, 1930, as amended (U.S.C., 1940 edition, title 18, secs. 751, 752),<sup>1</sup> in penal and correctional institutions of the United States. 42 U.S.C. 250

#### EXAMINATION AND TREATMENT OF FEDERAL EMPLOYEES

SEC. 324. (a) The Surgeon General is authorized to provide at institutions, hospitals, and stations of the Service medical, surgical, and hospital services and supplies for persons entitled to treatment under the United States Employees' Compensation Act<sup>2</sup> and extensions thereof. The Surgeon General may also provide for making medical examinations of— 42 U.S.C. 251

(1) employees of the Alaska Railroad and employees of the Federal Government for retirement purposes;

(2) employees in Federal classified service, and applicants for appointment, as requested by the Civil Service Commission for the purpose of promoting health and efficiency;

(3) seamen for purposes of qualifying for certificates of service; and

(4) employees eligible for benefits under the Longshoremen's and Harbor Workers' Compensation Act, as amended (U.S.C., 1940 edition, title 33, chapter 18), as requested by any deputy commissioner thereunder.

(b) The Secretary is authorized to provide medical, surgical, and dental treatment and hospitalization and optometric care for Federal employees (as defined in

<sup>1</sup> Codified to section 4005 of title 18, United States Code.

<sup>2</sup> Codified to Chapter 81 of title 5, United States Code.

section 8901(1) of title 5 of the United States Code) and their dependents at remote medical facilities of the Public Health Service where such care and treatment are not otherwise available. Such employees and their dependents who are not entitled to this care and treatment under any other provision of law shall be charged for it at rates established by the Secretary to reflect the reasonable cost of providing the care and treatment. Any payments pursuant to the preceding sentence shall be credited to the applicable appropriation to the Public Health Service for the year in which such payments are received.

#### EXAMINATION OF ALIENS

42 U.S.C. 252

SEC. 325. The Surgeon General shall provide for making, at places within the United States or in other countries, such physical and mental examinations of aliens as are required by the immigration laws, subject to administrative regulations prescribed by the Attorney General and medical regulations prescribed by the Surgeon General with the approval of the Secretary.

#### SERVICES TO COAST GUARD, COAST AND GEODETIC SURVEY, AND PUBLIC HEALTH SERVICE

42 U.S.C. 253

SEC. 326. (a) Subject to regulations of the President—

(1) commissioned officers, chief warrant officers, warrant officers, cadets, and enlisted personnel of the Regular Coast Guard on active duty, including those on shore duty and those on detached duty; and Regular and temporary members of the United States Coast Guard Reserve when on active duty;

(2) commissioned officers, ships' officers, and members of the crews of vessels of the United States Coast and Geodetic Survey on active duty including those on shore duty and those on detached duty; and

(3) commissioned officers of the Regular or Reserve Corps of the Public Health Service on active duty;

shall be entitled to medical, surgical, and dental treatment and hospitalization by the Service. The Surgeon General may detail commissioned officers for duty aboard vessels of the Coast Guard or the Coast and Geodetic Survey.

(b) \* \* \*

(c) The Service shall provide all services referred to in subsection (a) required by the Coast Guard or Coast and Geodetic Survey and shall perform all duties prescribed by statute in connection with the examinations to determine physical or mental condition for purposes of appointment, enlistment, and reenlistment, promotion

and retirement, and officers of the Service assigned to duty on Coast Guard or Coast and Geodetic Survey vessels may extend aid to the crews of American vessels engaged in deep-sea fishing.

#### INTERDEPARTMENTAL WORK

SEC. 327. Nothing contained in this part shall affect the authority of the Service to furnish any materials, supplies, or equipment, or perform any work or services, requested in accordance with section 7 of the Act of May 21, 1920, as amended (U.S.C., 1940 edition, title 31, sec. 686), or the authority of any other executive department to furnish any materials, supplies, or equipment, or perform any work or services, requested by the Department of Health, Education, and Welfare for the Service in accordance with that section.

42 U.S.C. 254

#### SHARING OF MEDICAL CARE FACILITIES AND RESOURCES

SEC. 328. (a) For purposes of this section—

42 U.S.C. 254a

(1) the term "specialized health resources" means health care resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the health care community or are subject to maximum utilization only through mutual use;

(2) the term "hospital", unless otherwise specified, includes (in addition to other hospitals) any Federal hospital.

(b) For the purpose of maintaining or improving the quality of care in Public Health Service facilities and to provide a professional environment therein which will help to attract and retain highly qualified and talented health personnel, to encourage mutually beneficial relationships between Public Health Service facilities and hospitals and other health facilities in the health care community, and to promote the full utilization of hospitals and other health facilities and resources, the Secretary may—

(1) enter into agreements or arrangements with schools of medicine, and with other health schools, agencies, or institutions, for such interchange or cooperative use of facilities and services on a reciprocal or reimbursable basis, as will be of benefit to the training or research programs of the participating agencies; and

(2) enter into agreement or arrangements with hospitals and other health care facilities for the mutual use or the exchange of use of specialized health resources, and providing for reciprocal reimbursement.



Any reimbursement pursuant to any such agreement or arrangement shall be based on charges covering the reasonable cost of such utilization, including normal depreciation and amortization costs of equipment. Any proceeds to the Government under this subsection shall be credited to the applicable appropriation of the Public Health Service for the year in which such proceeds are received.

#### COMMUNITY HEALTH CENTERS

42 U.S.C. 254c

SEC. 330. (a) For purposes of this section, the term "community health center" means an entity which either through its staff and supporting resources or through contracts or cooperative arrangements with other public or private entities provides—

- (1) primarily health services,
- (2) as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services,
- (3) referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services,
- (4) as may be appropriate for particular centers, environmental health services, and
- (5) information on the availability and proper use of health services,

for all residents of the area it serves (referred to in this section as a "catchment area").

(b) For purposes of this section:

(1) The term "primary health services" means—

(A) services of physicians and, where feasible, services of physicians' assistants and nurse clinicians;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care; and

(F) preventive dental services.

(2) The term "supplemental health services" means services which are not included as primary health services and which are—

(A) hospital services;

(B) home health services;

(C) extended care facility services;

(D) rehabilitative services (including physical therapy) and long-term physical medicine;

(E) mental health services;

- (F) dental services;
- (G) vision services;
- (H) allied health services;
- (I) pharmaceutical services;
- (J) therapeutic radiologic services;
- (K) public health services (including nutrition education and social services);
- (L) ambulatory surgical services;
- (M) health education services; and
- (N) services which promote and facilitate optimal use of primary health services and the services referred to in the preceding subparagraphs of this paragraph, including, if a substantial number of the individuals in the population served by a community health center are of limited English-speaking ability, the services of outreach workers fluent in the language spoken by a predominant number of such individuals.

(3) The term "medical underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. In designating urban and rural areas for purposes of this paragraph, the Secretary shall take into account unusual local conditions which are a barrier to access to or the availability of personal health services.

(c) (1) The Secretary may make grants to public and nonprofit private entities for projects to plan and develop community health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and modernization of existing buildings (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

(A) an assessment of the need that the population proposed to be served by the community health center for which the project is undertaken has for primary health services, supplemental health services, and environmental health services;

(B) the design of a community health center program for such population based on such assessment;

(C) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project; and

(D) initiation and encouragement of continuing community involvement in the development and operation of the project.

(2) Not more than two grants may be made under this subsection for the same project.

(3) The amount of any grant made under this subsection for any project shall be determined by the Secretary.

(d)(1)(A) The Secretary may make grants for the costs of operation of public and nonprofit private community health centers which serve medically underserved populations.

(B) The Secretary may make grants for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which he is unable to make each of the determinations required by subsection (e)(2).

(2) The costs for which a grant may be made under paragraph (1) may include the costs of acquiring and modernizing existing buildings (including the costs of amortizing the principal of, and paying interest on, loans) and the costs of providing training related to the provision of primary health services, supplemental health services and environmental health services, and to the management of community health center programs.

(3) Not more than two grants may be made under paragraph (1)(B) for the same entity.

(4) The amount of any grant made under paragraph (1) shall be determined by the Secretary.

(e)(1) No grant may be made under subsection (c) or (d) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. An application for a grant which will cover the costs of modernizing a building shall include, in addition to other information required by the Secretary—

(A) a description of the site of the building,

(B) plans and specifications for its modernization, and

(C) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on the modernization of the building will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards referred to in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(2) Except as provided in subsection (d)(1)(B), the Secretary may not approve an application for a grant under subsection (d) unless the Secretary determines that the entity for which the application is submitted is a community health center (within the meaning of subsection (a)) and that—



(A) the primary health services of the center will be available and accessible in the center's catchment area promptly, as appropriate, and in a manner which assures continuity;

(B) the center will have organizational arrangements, established in accordance with regulations prescribed by the Secretary, or (i) an ongoing quality assurance program (including utilization and peer review systems) respecting the center's services, and (ii) maintaining the confidentiality of patient records;

(C) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(D) the center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(E) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program:

(F) the center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (E) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as he may require to determine compliance with this subparagraph;

(G) the center has established a governing board which (i) is composed of individuals a majority of

whom are being served by the center and who, as a group, represent the individuals being served by the center, and (ii) meets at least once a month, establishes general policies for the center (including the selection of services to be provided by the center and a schedule of hours during which services will be provided), approves the center's annual budget, and approves the selection of a director for the center;

(H) the center has developed, in accordance with regulations of the Secretary, (i) an overall plan and budget that meets the requirements of section 1861 (z) of the Social Security Act, and (ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to (I) the costs of its operations, (II) the patterns of use of its services, (III) the availability, accessibility, and acceptability of its services, and (IV) such other matters relating to operations of the applicant as the Secretary may, by regulation, require;

(I) the center will review periodically its catchment area to (i) insure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate, (ii) insure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (iii) insure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation; and

(J) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respects to cultural sensitivities and bridging linguistic and cultural differences.

(f) The Secretary may provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other non-financial assistance (including fiscal and program man-

agement assistance and training in such management) to any public or private nonprofit entity to assist it in developing plans for, and in operating as, a community health center, and in meeting requirements of subsection (e) (2).

(g) (1) There are authorized to be appropriated for payments pursuant to grants under subsection (c) \$5,000,000 for fiscal year 1976, \$5,000,000 for the fiscal year ending September 30, 1977, and \$5,880,000 for the fiscal year ending September 30, 1978.

(2) There are authorized to be appropriated for payments pursuant to grants under subsection (d) \$215,000,000 for fiscal year 1976, \$235,000,000 for the fiscal year ending September 30, 1977, and \$256,840,000 for the fiscal year ending September 30, 1978.

## Subpart II—National Health Service Corps Program

### NATIONAL HEALTH SERVICE CORPS

SEC. 331. (a) There is established, within the Service, 42 U.S.C. 254d the National Health Service Corps (hereinafter in this subpart referred to as the "Corps") which (1) shall consist of such officers of the Regular and Reserve Corps of the Service and such civilian personnel as the Secretary may designate (such officers and personnel hereinafter in this subpart referred to as 'Corps members') and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 332(a).

(b) The Secretary shall conduct at schools of medicine, osteopathy, dentistry, and, as appropriate, nursing and other schools of the health professions and at entities which train allied health personnel, recruiting programs for the Corps and the Scholarship Program.

(c) The Secretary may reimburse applicants for positions in the Corps for actual and reasonable expenses incurred in traveling to and from their places of residence to a health manpower shortage area (designated under section 332) in which they may be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

(d) (1) The Secretary may, under regulations promulgated by the Secretary, adjust the monthly pay of each member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area as follows:

(A) During the first 36 months in which such a member is so engaged in the delivery of health services, his monthly pay shall be increased by an amount (not to exceed \$1,000) which when added to the member's monthly pay and allowances will



provide a monthly income competitive with the average monthly income from a practice of an individual who is a member of the profession of the Corps member, who has equivalent training, and who has been in practice for a period equivalent to the period during which the Corps member has been in practice.

(B) During the period beginning upon the expiration of the 36 months referred to in subparagraph (A) and ending with the month in which the member's monthly pay and allowances are equal to or exceed the monthly income he received for the last of such 36 months, the member shall receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowances equals the monthly income he received for such last month.

(C) For each month in which a member is directly engaged in the delivery of health services in a health manpower shortage area in accordance with an agreement with the Secretary entered into under section 741(f)(1)(C), under which the Secretary is obligated to make payments in accordance with section 741(f)(2), the amount of any monthly increase under subparagraph (A) or (B) with respect to such member shall be decreased by an amount equal to one-twelfth of the amount which the Secretary is obligated to pay upon the completion of the year of practice in which such month occurs.

For purposes of subparagraphs (A) and (B), the term "monthly pay" includes special pay received under chapter 5 of title 37 of the United States Code.

(2) In the case of a member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area in accordance with a service obligation incurred under the Scholarship Program, the adjustment in pay authorized by paragraph (1) may be made for such a member only upon satisfactory completion of such service obligation, and the first 36 months of such member's being so engaged in the delivery of health services shall, for purposes of paragraph (1)(A), be deemed to begin upon such satisfactory completion.

(e) Corps members assigned under section 333 to provide health services in health manpower shortage areas shall not be counted against any employment ceiling affecting the Department.

(f) Sections 214 and 216 shall not apply to members of the National Health Service Corps during their period of obligated service under the Scholarship Program.

(g) The administrative unit which administers section 770—

(1) shall participate in the development of regulations, guidelines, funding priorities, and application forms, and

(2) shall be consulted by, and may make recommendations to, the Secretary in the review of applications and proposals for, and the awarding of, grants and contracts,

with respect to the Corps.

(h) For the purposes of this subpart:

(1) The term "Department" means the Department of Health, Education, and Welfare.

(2) The term "Scholarship Program" means the National Health Service Corps Scholarship Program established under section 751.

(3) The term "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

#### DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

SEC. 332. (a) (1) For purposes of this subpart the term "health manpower shortage area" means (A) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage, (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage. 42 U.S.C. 254e

(2) For purposes of this subsection, the term "medical facility" means a facility for the delivery of health services and includes—

(A) a hospital, State mental hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, community mental health center, migrant health center, and community health center;

(B) such a facility of a State correctional institution or of the Indian Health Service;

(C) such a facility used in connection with the delivery of health services under sections 321 (relating to hospitals), 322 (relating to care and treatment of seamen and others), 323 (relating to care and treatment of Federal prisoners), 324 (relating to examination and treatment of certain Federal employees), 325 (relating to examination of aliens), or 326 (relating to services to certain Federal employ-

ees), or part D of title III (relating to services for persons with Hansen's disease); and

(D) a Federal medical facility.

(b) The Secretary shall establish by regulation, promulgated not later than May 1, 1977, criteria for the designation of areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

(1) The ratio of available health manpower to the number of individuals in an area or population group, or served by a medical facility or other public facility under consideration for designation.

(2) Indicators of a need, notwithstanding the supply of health manpower, for health services for the individuals in an area or population group or served by a medical facility or other public facility under consideration for designation, with special consideration to indicators of—

(A) infant mortality,

(B) access to health services, and

(C) health status.

(3) The percentage of physicians serving an area, population group, medical facility, or other public facility under consideration for designation who are employed by hospitals and who are graduates of foreign medical schools.

(c) In determining whether to make a designation, the Secretary shall take into consideration the following:

(1) (A) The recommendations of each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility under consideration for designation.

(B) The recommendations of the State health planning and development agency (designated under section 1521) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated.

(2) The recommendations of the Governor of each State in which the area, population group, medical facility, or other public facility under consideration for designation is in whole or part located.

(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.



(d) In accordance with the criteria established under subsection (b) and the considerations listed in subsection (c), the Secretary shall designate, not later than November 1, 1977, health manpower shortage areas in the States, publish a descriptive list of the areas, population groups, medical facilities, and other public facilities so designated, and at least annually review and, as necessary, revise such designations.

(e) Prior to the designation of a public facility, including a Federal medical facility, as a health manpower shortage area, the Secretary shall give written notice of such proposed designation to the chief administrative officer of such facility and request comments within 30 days with respect to such designation.

(f) The Secretary shall give written notice of the designation of a health manpower shortage area, not later than 60 days from the date of such designation, to—

(1) the Governor of each State in which the area, population group, medical facility, or other public facility so designated is in whole or part located;

(2) (A) each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group medical facility, or other public facility so designated; or

(B) the State health planning and development agency of the State (designated under section 1521) if there is a part of such area, population group, medical facility, or other public facility within a health service area for which no health systems agency has been designated; and

(3) appropriate public or nonprofit private entities which are located or which have a demonstrated interest in the area so designated.

(g) Any person may recommend to the Secretary the designation of an area, population group, medical facility, or other public facility as a health manpower shortage area.

(h) The Secretary shall conduct such information programs in areas, among population groups, and in medical facilities and other public facilities designated under this section as health manpower shortage areas as may be necessary to inform public and nonprofit private entities which are located or have a demonstrated interest in such areas of the assistance available under this title by virtue of the designation of such areas.

#### ASSIGNMENT OF CORPS PERSONNEL

SEC. 333. (a) (1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in or to a health manpower shortage area during the assignment period

(specified in the agreement described in section 334) only if—

(A) a public or nonprofit private entity, which is located or has a demonstrated interest in such area makes application to the Secretary for such assignment;

(B) such application has been approved by the Secretary;

(C) an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 334; and

(D) in the case of an application made by an entity which has previously been assigned a Corps member for a health manpower shortage area under an agreement (entered into under section 334) or under section 329 as in effect before October 1, 1977) which has expired, the Secretary has (i) conducted an evaluation of the continued need for health manpower for the area, the use of Corps members previously assigned to the area, community support for the assignment of Corps members to the area, the area's efforts to secure health manpower for the area, and fiscal management by the entity with respect to Corps members previously assigned and (ii) on the basis of such evaluation has determined that—

(I) there is a continued need for health manpower for the area;

(II) there has been appropriate and efficient use of Corps members previously assigned to the entity for the area;

(III) there is general community support for the assignment of Corps members to the entity;

(IV) the area has made continued efforts to secure health manpower for the area; and

(V) there has been sound fiscal management, including efficient collection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members previously assigned to such entity.

(2) Corps members may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

(b) The Secretary may not approve an application under this section for assignment of a Corps member to a health manpower shortage area unless the Secretary has afforded—

(1) each health systems agency (designated under section 1515) for a health service area which includes all or part of the area in which the area, population group, medical facility, or other public facility so designated is located, or

(2) if there is a part of such area, population group, medical facility, or other public facility located within a health service area for which no health systems agency has been designated, the State health planning and development agency (designated under section 1521) of the State in which such part is located,

an opportunity to review the application and submit to the Secretary its comments respecting the need for, and proposed use of, the Corps member requested in the application.

(c) In considering, and giving approval to, applications made under this section for the assignment of Corps members, the Secretary shall—

(1) give priority to an application which provides for the assignment of Corps members to an area, population group, medical facility, or other public facility with the greatest health manpower shortage, as determined under criteria established under section 332(b);

(2) give special consideration to an application which provides for the use of physician assistants, nurse practitioners, or expanded function dental auxiliaries;

(3) take into consideration the willingness of individuals in the area or population group, or at the medical facility or other public facility, and of the appropriate governmental agencies or health entities, to assist and cooperate with the Corps in providing effective health services; and

(4) take into consideration comments of medical, osteopathic, dental, or other health professional societies serving the area, population group, medical facility, or other public facility, or, if no such societies exist, comments of physicians, dentists, or other health professionals serving the area, population group, medical facility, or other public facility.

(d) The Secretary shall assign Corps members to entities in health manpower shortage areas without regard to the ability of the individuals in such areas, population groups, medical facilities, or other public facilities to pay for such services.

(e) In making the assignment of a Corps member to an entity in a health manpower shortage area which has had an application approved under this section, the Secretary shall seek to assign to an area a Corps member who has (and whose spouse, if any, has) those characteristics which are characteristics which increase the probability of the member's remaining to serve the area upon completion of his assignment period.

(f)(1) The Secretary shall provide technical assistance to a public or nonprofit private entity which is located or has a demonstrated interest in a health man-



power shortage area and which desires to make an application under this section for assignment of a Corps member to such area.

(2) The Secretary shall provide, to public and non-profit private entities which are located or have a demonstrated interest in a health manpower shortage area to which area a Corps member has been assigned, technical assistance to assist in the retention of such member in such area after the completion of such member's assignment to the area.

(3) The Secretary shall provide, to health manpower shortage areas to which no Corps member has been assigned, (A) technical assistance to assist in the recruitment of health manpower for such areas, and (B) current information on public and private programs which provide assistance in the securing of health manpower.

(g) The Secretary shall conduct, or enter into contracts for the conduct of, studies of the methods of assignments of Corps members to health manpower shortage areas. Such studies shall include studies of—

(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas;

(2) the characteristics, including utilization and reimbursement patterns, of areas which have been able to retain health manpower personnel; and

(3) the appropriate conditions for the assignment and use of nurse practitioners, physician assistants, and expanded function dental auxiliaries in health manpower shortage areas.

(h) Notwithstanding any other law, any member of the Corps licensed to practice medicine, osteopathy, or dentistry in any State shall, while serving in the Corps, be allowed to practice such profession in any State.

#### COST SHARING

42 U.S.C. 254g

SEC. 334. (a) The Secretary shall require, as a condition to the approval of an application under section 333, that the entity which submitted the application enter into an agreement for a specific assignment period (not to exceed 4 years) with the Secretary under which—

(1) the entity shall be responsible for charging, in accordance with subsection (d), for health services provided by Corps members assigned to the entity;

(2) the entity shall take such action as may be reasonable for the collection of payments for such health services, including, if a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of such health services if it had not been provided by Corps members under this subpart, the col-

lection, on a fee-for-service or other basis, from such agency or third party, the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps members shall be considered as being provided by private practitioners);

(3) the entity shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, the sum of—

(A) the portion of the salary (including amounts paid in accordance with section 331(d)) and allowances of any Corps member received by such member during such calendar quarter (or other period) while such member was assigned to such entity;

(B) for any Corps member assigned to such entity, an amount which bears the same ratio to the amount paid under the Scholarship Program to or on the behalf of such Corps member as the number of days of obligated service, provided by such member during such quarter (or other period) bears to the number of days in his period of obligated service under such Program; and

(C) if such entity received a loan under section 335(c), an amount which bears the same ratio to the amount of such loan as the number of days in such quarter (or other period) during which any Corps members were assigned to the entity bears to the number of days in the assignment period after such entity received such loan; and

(4) the entity shall prepare and submit to the Secretary an annual report, in such form and manner, as the Secretary may require.

(b)(1) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for an entity if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members.

(2) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for any entity which is located in a health manpower shortage area in which a significant percentage of the individuals are elderly, living in poverty, or have other characteristics which indicate an inability to repay, in whole or in part, the amounts required in subsection (a)(3).

(3) In the event that the Secretary grants a waiver under paragraph (1) or (2), the entity shall be required to use the total amount of funds collected by such entity in accordance with subsection (a)(2) for the improvement of the capability of such entity to deliver health services to the individuals in, or served by, the health manpower shortage area.

(c) The excess (if any) of the amount of funds collected by an entity in accordance with subsection (a)(2) over the amount paid to the United States in accordance with subsection (a)(3) shall be used by the entity to expand and improve the provision of health services to the individuals in the health manpower shortage area for which the entity submitted an application or to recruit and retain health manpower to provide health services for such individuals.

(d) Any person who receives health services provided by a Corps member under this subpart shall be charged for such services on a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. Such rate shall be computed in such a way as to permit the recovery of the value of such services, except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate or without charge.

(e) Funds received by the Secretary under an agreement entered into under this section shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining the amounts of appropriations to be requested and the amounts to be made available from appropriations made under section 338 to carry out this subpart.

#### PROVISION OF HEALTH SERVICES BY CORPS MEMBERS

42 U.S.C. 254h

SEC. 335. (a) In providing health services in a health manpower shortage area, Corps members shall utilize the techniques, facilities, and organizational forms most appropriate for the area, population group, medical facility, or other public facility, and shall, to the maximum extent feasible, provide such services (1) to all individuals in, or served by, such health manpower shortage area regardless of their ability to pay for the services, and (2) in connection with (A) direct health services programs carried out by the Service, (B) any other direct health services program carried out in whole or in part with Federal financial assistance, or (C) any other health services activity which is in furtherance of the purposes of this subpart.

(b)(1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to



enable Corps members to utilize the health facilities in or serving the health manpower shortage area in providing health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent or temporary services of physicians, dentists, nurses, administrators, and other health personnel. If there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service or may lease or otherwise provide facilities in or serving such area for the provision of health services.

(2) If the individuals in or served by a health manpower shortage area are being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to individuals who are entitled to health services and treatment through such hospital or facility.

(c) The Secretary may make one loan to any entity with an approved application under section 333 to assist such entity in meeting the costs of (1) establishing medical, dental, or other health profession practices, including the development of medical practice management systems; (2) acquiring equipment for use in providing health services; (3) renovating buildings to establish health facilities; and (4) establishing appropriate continuing education programs. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any such loan shall be determined by the Secretary, except that no such loan may exceed \$50,000.

(d) Upon the expiration of the assignment of all Corps members to a health manpower shortage area, the Secretary may (notwithstanding any other provision of law) sell, to any appropriate local entity, equipment and other property of the United States utilized by such members in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property; except that the Secretary may make such sales for a lesser value to an appropriate local entity, if he determines that the entity is financially unable to pay the full market value.

(e) (1) (A) It shall be unlawful for any hospital to deny an authorized physician or dentist member of the Corps admitting privileges when such Corps member

otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease, for a period to be determined by the Secretary, to receive and to be eligible to receive any Federal funds under this Act or under titles XVIII or XIX of the Social Security Act.

(2) For purposes of this subsection, the term 'hospital' includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

#### ANNUAL REPORTS

42 U.S.C. 2541

SEC. 336. The Secretary shall submit an annual report to Congress on May 1 of each year, and shall include in such report with respect to the previous calendar year—

(1) the number, identity, and priority of all health manpower shortage areas designated in such year and the number of health manpower shortage areas which the Secretary estimates will be designated in the subsequent year;

(2) the number of applications filed under section 333 in such year for assignment of Corps members and the action taken on each such application;

(3) the number and types of Corps members assigned in such year to health manpower shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to such areas in the subsequent year, and the need for additional members for the Corps;

(4) the recruitment efforts engaged in for the Corps in such year and the number of qualified individuals who applied for service in the Corps in such year;

(5) the number of patients seen and the number of patient visits recorded during such year with respect to each health manpower shortage area to which a Corps member was assigned during such year;

(6) the number of Corps members who elected, and the number of Corps members who did not elect, to continue to provide health services in health manpower shortage areas after termination of their service in the Corps and the reasons (as reported to the Secretary) of members who did not elect for not making such election;

(7) the results of evaluations and determinations made under section 333(a)(1)(D) during such year; and

(8) the amount charged during such year for health services provided by Corps members, the amount which was collected in such year by entities in accordance with agreements under section 334, and the amount which was paid to the Secretary in such year under such agreements.

#### NATIONAL ADVISORY COUNCIL

SEC. 337. (a) There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the "Council"). The Council shall be composed of fifteen members appointed by the Secretary as follows:

42 U.S.C. 254j

(1) Four members shall be appointed from the general public to represent the consumers of health care, at least two of whom shall be individuals who are residents of, members of, or served by Corps members assigned to, a health manpower shortage area.

(2) Three members shall be appointed from medical, dental, and other health professions.

(3) One member shall be appointed from a State health planning and development agency (designated under section 1521), one member shall be appointed from a Statewide Health Coordinating Council (designated under section 1524), and one member shall be appointed from a health systems agency designated under section 1515).

(4) Three members shall be appointed from the Service, at least two of whom shall be members of the Corps directly engaged in the provision of health services in a health manpower shortage area.

(5) Two members shall be appointed from the National Council on Health Planning and Development (established under section 1503).

No individual who is a provider of health care (as defined in section 1531(3)) may be appointed as a member of the Council under paragraph (1), (3), or (5). The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart, and shall review and comment upon regulations promulgated by the Secretary under this subpart.

(b) (1) Members of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may be reappointed to the Council.



(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule; and while so serving away from their homes or regular places of business all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government Service employed intermittently.

(c) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

#### AUTHORIZATION OF APPROPRIATION

42 U.S.C. 254k

SEC. 338. (a) To carry out the purposes of this subpart, there are authorized to be appropriated \$47,000,000 for the fiscal year ending September 30, 1978; \$57,000,000 for the fiscal year ending September 30, 1979; and \$70,000,000 for the fiscal year ending September 30, 1980.

(b) An appropriation under an authorization under subsection (a) for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under this subpart before the fiscal year for which such appropriation is authorized.

#### PART D—LEPERS

##### RECEIPT OF LEPERS

42 U.S.C. 255

SEC. 339. The Service shall, in accordance with regulations, receive into any hospital of the Service suitable for his accommodation any person afflicted with leprosy who presents himself for care, detention, or treatment, or who may be apprehended under section 332 or 361 of this Act, and any person afflicted with leprosy duly consigned to the care of the Service by the proper health authority of any State. The Surgeon General is authorized, upon the request of any health authority, to send for any person within the jurisdiction of such authority who is afflicted with leprosy and to convey such person to the appropriate hospital for detention and treatment. When the transportation of any such person is undertaken for the protection of the public health the expense of such removal shall be met from funds available for the maintenance of hospitals of the Service. Such funds shall also be

available, subject to regulations, for transportation of recovered indigent leper patients to their homes, including subsistence allowance while traveling. When so provided in appropriations available for any fiscal year for the maintenance of hospitals of the Service, the Surgeon General is authorized and directed to make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons afflicted with leprosy at a per diem rate, determined from time to time by the Surgeon General, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of such facilities, except that such per diem rate shall not be greater than the comparable per diem operating cost per patient at the National Leprosarium, Carville, Louisiana.

#### APPREHENSION, DETENTION, TREATMENT, AND RELEASE

SEC. 340. The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy. 42 U.S.C. 256

#### PART E—NARCOTIC ADDICTS AND OTHER DRUG ABUSERS

##### CARE AND TREATMENT

SEC. 341. (a) The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code), addicts and other persons with drug abuse and drug dependence problems who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision. In carrying out this 42 U.S.C. 257

subsection, the Secretary shall establish in each hospital and other appropriate medical facility of the Service a treatment and rehabilitation program for drug addicts and other persons with drug abuse and drug dependence problems who are in the area served by such hospital or other facility; except that the requirement of this sentence shall not apply in the case of any such hospital or other facility with respect to which the Secretary determines that there is not sufficient need for such a program in such hospital or other facility.

(b) Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this section, and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Commissioners of the District of Columbia or their designated agent, the name, address, and such other pertinent information as may be useful in the rehabilitation to society of such person.

(c) The Secretary may enter into agreements with the Administrator of Veterans' Affairs, the Secretary of Defense, and the head of any other department or agency of the Government under which agreements hospitals and other appropriate medical facilities of the Service may be used in treatment and rehabilitation programs provided by such department or agency for drug addicts and other persons with drug abuse and other drug dependence problems who are in areas served by such hospitals or other facilities.

#### EMPLOYMENT OF ADDICTS OR OTHER PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS

42 U.S.C. 258

SEC. 342. Narcotic addicts or other persons with drug abuse and drug dependence problems in hospitals of the Service designated for their care shall be employed in such manner and under such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payment to the inmates or their dependents of such pecuniary earnings as he may deem



proper. The Secretary shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel of employees in the performance of their official duties, and for the employment of necessary civilian officers and employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund.

#### CONVICTS

SEC. 343. (a) The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems, if accommodations are available, all addicts or other persons with drug abuse and drug dependence problems who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or reformatory institution of the United States, including those addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no addict or other person with a drug abuse or other drug dependence problem shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either because of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any addict or other person with a drug abuse or other drug dependence problem whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a narcotic addict or other person with a drug abuse or other drug dependence problem. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the

42 U.S.C. 259

officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Service hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an addict or other person with a drug abuse or other drug dependence problem such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such addiction, drug abuse, or drug dependence and the nature of the offense committed. Whenever an alien addict or other person with a drug abuse or other drug dependence problem transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution from which he came he shall be deported by the authority vested by law with power over deportation.

(b) <sup>1</sup> \* \* \* \*

(c) Not later than one month prior to the expiration of the sentence of any addict or other person with a drug abuse or other drug dependence problem confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an addict or other person with a drug abuse or other drug dependence problem and that he may by further treatment in a Service hospital be cured of his addiction, drug abuse, or drug dependence the addict or other person with a drug abuse or other drug dependence problem shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment. The addict or other person with a drug abuse or other drug dependence problem may then apply in writing to the Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the addict or other person with a drug abuse or other drug dependence problem may be given such further treatment as is necessary to cure him of his addiction, drug abuse, or drug dependence.

(d) Every person convicted of an offense against the United States, upon discharge, or upon release on parole from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

<sup>1</sup> Repealed by sec. 3, P.L. 92-293.

(e) Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an addict, or other person with a drug abuse or other drug dependence problem shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems until discharged therefrom as cured and that he shall be admitted thereto for such purpose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided*, That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to addicts or other persons with drug abuse and drug dependence problems discharged from hospitals of the Service.

#### VOLUNTARY PATIENTS

SEC. 344. (a) Any addict, or other person with a drug abuse or other drug dependence problem whether or not he shall have been convicted of an offense against the United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of addicts or other persons with drug abuse and drug dependence problems. 42 U.S.C. 260

(b) Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an addict, or other person with a drug abuse or other drug dependence problem whether by treatment in a hospital of the Service he may probably be cured of his addiction, drug abuse, or drug dependence and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such addict or other person with drug abuse or other drug dependence problem shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommo-



dations are available after all eligible addicts or other persons with drug abuse and drug dependence problems convicted of offenses against the United States have been admitted. Any such addict or other person with a drug abuse or other drug dependence problem may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of addicts or other persons with drug abuse and drug dependence problems admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent addict or other person with a drug abuse or other drug dependence problem who is discharged as cured.

(c) Any addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section, including any addict, or other person with a drug abuse or other drug dependence problem not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of time estimated by the Surgeon General as necessary to effect a cure of the addiction, drug abuse, or drug dependence or until such time as he ceases to be an addict or other person with a drug abuse or other drug dependence problem.

(d) Any addict or other person with a drug abuse or other drug dependence problem admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment shall, except as otherwise provided by this Act, be confidential and shall not be divulged.

#### PERSONS COMMITTED FROM DISTRICT OF COLUMBIA

42 U.S.C. 260a

SEC. 345. (a) The Surgeon General is authorized to admit for care and treatment in any hospital of the Service suitably equipped therefor, and thereafter to transfer between hospitals of the Service in accordance with section 321 (b), any addict who is committed, under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress)<sup>1</sup>, to the Service or to a hospital thereof for care and treatment and who the Surgeon General determines is a proper subject for care

and treatment. No such addict shall be admitted unless (1) committed prior to July 1, 1958; and (2) at the time of commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than 100; and (3) suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted.

(b) Any person admitted to a hospital of the Service pursuant to subsection (a) shall be discharged therefrom (1) upon order of the Superior Court of the District of Columbia, or (2) when he is found by the Surgeon General to be cured and rehabilitated. When any such person is so discharged, the Surgeon General shall give notice thereof to the Superior Court of the District of Columbia and shall deliver such person to such court for such further action as such court may deem necessary and proper under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress).<sup>1</sup>

(c) With respect to the detention, transfer, parole, or discharge of any person committed to a hospital of the Service in accordance with subsection (a), the Surgeon General and the officer in charge of the hospital, in addition to authority otherwise vested in them, shall have such authority as may be conferred upon them, respectively, by the order of the committing court.

(d) The cost of providing care and treatment for persons admitted to a hospital of the Service pursuant to subsection (a) shall be a charge upon the District of Columbia and shall be paid by the District of Columbia to the Public Health Service, either in advance or otherwise, as may be determined by the Surgeon General. Such cost may be determined for each addict or on the basis of rates established for all or particular classes of patients, and shall include the cost of transportation to and from facilities of the Public Health Service. Moneys so paid to the Public Health Service shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to the District of Columbia, including subsistence allowance while traveling, for any such addict who is discharged.

#### PENALTIES

SEC. 346. (a) Any person not authorized by law or by the Surgeon General who introduces or attempts to introduce into or upon the grounds of any hospital of the

42 U.S.C. 261

<sup>1</sup> Hospital Treatment for Drug Addicts Act for the District of Columbia; D.C. Code, title 24, ch. 6.

Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, any habit-forming narcotic drug, or substance controlled under the Controlled Substances Act, weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years.

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, and any such person upon apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts or other persons with drug abuse and drug dependence problems are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States court by imprisonment in the penitentiary for not more than three years.

#### RELEASE OF PATIENTS

42 U.S.C. 261a

SEC. 347. For purposes of this Act, an individual shall be deemed cured of his addiction, drug abuse, or drug dependence, and rehabilitated if the Surgeon General determines that he has received the maximum benefits of treatment and care by the Service for his addiction, drug abuse, or drug dependence, or if the Surgeon General determines that his further treatment and care for such purpose would be detrimental to the interests of the Service.

#### PART F—LICENSING—BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES AND CONTROL OF RADIATION

##### Subpart 1—Biological Products

#### REGULATION OF BIOLOGICAL PRODUCTS

42 U.S.C. 262

SEC. 351. (a) No person shall sell, barter, or exchange, or offer for sale, barter, or exchange in the District of Columbia, or send, carry, or bring for sale, barter, or exchange from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession, any virus, therapeutic serum, toxin, antitoxin, vaccine, blood,



blood component or derivative, allergenic product, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man, unless (1) such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product has been propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license, issued by the Secretary as hereinafter authorized, to propagate or manufacture, and prepare such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product for sale in the District of Columbia, or for sending, bringing, or carrying from place to place aforesaid; and (2) each package of such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product is plainly marked with the proper name of the article contained therein, the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected beyond reasonable doubt to yield their specific results. The suspension or revocation of any license shall not prevent the sale, barter, or exchange of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid which has been sold and delivered by the licensee prior to such suspension or revocation, unless the owner or custodian of such virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid has been notified by the Secretary not to sell, barter, or exchange the same.

(b) No person shall falsely label or mark any package or container or any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid; nor alter any label or mark on any package or container of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or other product aforesaid so as to falsify such label or mark.

(c) Any officer, agent, or employee of the Department of Health, Education, and Welfare, authorized by the Secretary for the purpose, may during all reasonable hours enter and inspect any establishment for the propagation or manufacture and preparation of any virus, serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product or other product aforesaid for sale, barter, or exchange in the District of Columbia, or to be sent, carried, or brought from any State or possession into any other State or possession or into any foreign country, or from any foreign country into any State or possession.

(d) Licenses for the maintenance of establishments for the propagation or manufacture and preparation of products described in subsection (a) of this section may be issued only upon a showing that the establishment and the products for which a license is desired meet standards, designed to insure the continued safety, purity, and potency of such products, prescribed in regulations, and licenses for new products may be issued only upon a showing that they meet such standards. All such licenses shall be issued, suspended, and revoked as prescribed by regulations and all licenses issued for the maintenance of establishment for the propagation or manufacture and preparation, in any foreign country, of any such products for sale, barter, or exchange in any State or possession shall be issued upon condition that the licensees will permit the inspection of their establishments in accordance with subsection (c) of this section.

(e) No person shall interfere with any officer, agent, or employee of the Service in the performance of any duty imposed upon him by this section or by regulations made by authority thereof.

(f) Any person who shall violate, or aid or abet in violating, any of the provisions of this section shall be punished upon conviction by a fine not exceeding \$500 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

(g) Nothing contained in this Act shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act (U.S.C., 1940 edition, title 21, ch. 9).

#### PREPARATION OF BIOLOGICAL PRODUCTS

42 U.S.C. 263

SEC. 352. (a) The Service may prepare for its own use any product described in section 351 and any product necessary to carrying out any of the purposes of section 301.

(b) The Service may prepare any product described in section 351 for the use of other Federal departments or agencies, and public or private agencies and individuals engaged in work in the field of medicine when such product is not available from establishments licensed under such section.

#### SUBPART 2—CLINICAL LABORATORIES

##### LICENSING OF LABORATORIES

42 U.S.C. 263a

SEC. 353. (a) As used in this section—

(1) the term "laboratory" or "clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or

other examination of materials derived from the human body, for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, man;

(2) The term "interstate commerce" means trade, traffic, commerce, transportation, transmission, or communication between any State or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, and any place outside thereof, or within the District of Columbia.

(b)(1) No person may solicit or accept in interstate commerce, directly or indirectly, any specimen for laboratory examination or other laboratory procedures, unless there is in effect a license for such laboratory issued by the Secretary under this section applicable to such procedures.

(2) The Secretary shall by regulation exempt from the provisions of this section laboratories whose operations are so small or infrequent as not to constitute a significant threat to the public health.

(c) A license issued by the Secretary under this section may be applicable to all laboratory procedures or only to specified laboratory procedures or categories of laboratory procedures.

(d)(1) A license shall not be issued in the case of any clinical laboratory unless (A) the application therefor contains or is accompanied by such information as the Secretary finds necessary, and (B) the applicant agrees and the Secretary determines that such laboratory will be operated in accordance with standards found necessary by the Secretary to carry out the purposes of this section. Such standards shall be designed to assure consistent performance by the laboratories of accurate laboratory procedures and services, and shall include, among others, standards to assure—

(i) maintenance of a quality control program adequate and appropriate for accuracy of the laboratory procedures and services;

(ii) maintenance of records, equipment, and facilities necessary to proper and effective operation of the laboratory;

(iii) qualifications of the director of the laboratory and other supervisory professional personnel necessary for adequate and effective professional supervision of the operation of the laboratory (which shall include criteria relating to the extent to which training and experience shall be substituted for education); and

(iv) participation in a proficiency testing program established by the Secretary.



(2) A license issued under this section shall be valid for a period of three years, or such shorter period as the Secretary may establish for any clinical laboratory or any class or classes thereof; and may be renewed in such manner as the Secretary may prescribe. The provisions of this section requiring licensing shall not apply to a clinical laboratory in a hospital accredited by the Joint Commission on the Accreditation of Hospitals or by the American Osteopathic Association, or a laboratory which has been inspected and accredited by such commission or association, by the Commission on Inspection and Accreditation of the College of American Pathologists, or by any other national accreditation body approved for the purpose by the Secretary, but only if the standards applied by such commission, association, or other body in determining whether or not to accredit such hospital or laboratory are equal to or more stringent than the provisions of this section and the rules and regulations issued under this section, and only if there is adequate provision for assuring that such standards continue to be met by such hospital or laboratory; provided that any such laboratory shall be treated as a licensed laboratory for all other purposes of this section.

(3) The Secretary may require payment of fees for the issuance and renewal of licenses, but the amount of any such fee shall not exceed \$125 per annum.

(e) A laboratory license may be revoked, suspended, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

(1) has been guilty of misrepresentation in obtaining the license;

(2) has engaged or attempted to engage or represented himself as entitled to perform any laboratory procedure or category of procedures not authorized in the license;

(3) has failed to comply with the standards with respect to laboratories and laboratory personnel prescribed by the Secretary pursuant to this section;

(4) has failed to comply with reasonable requests of the Secretary for any information or materials, or work on materials, he deems necessary to determine the laboratory's continued eligibility for its license hereunder or continued compliance with the Secretary's standards hereunder;

(5) has refused a request of the Secretary or any Federal officer or employee duly designated by him for permission to inspect the laboratory and its operations and pertinent records at any reasonable time; or

(6) has violated or aided and abetted in the violation of any provisions of this section or of any rule or regulation promulgated thereunder.

(f) Whenever the Secretary has reason to believe that continuation of any activity by a laboratory licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such laboratory is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond or by such court.

(g) (1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both such imprisonment and fine.

(i) The provisions of this section shall not apply to any clinical laboratory operated by a licensed physician, osteopath, dentist, or podiatrist, or group thereof, who performs or perform laboratory tests or procedures, personally or through his or their employees, solely as an adjunct to the treatment of his or their own patients; nor shall such provisions apply to any laboratory with respect to tests or other procedures made by it for any person engaged in the business of insurance if made solely for purposes of determining whether to write an insurance contract or of determining eligibility or continued eligibility for payments thereunder.

(j) In carrying out his functions under this section, the Secretary is authorized, pursuant to agreement, to utilize the services or facilities of any Federal or State or local public agency or nonprofit private agency or organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as he may determine.

(k) Nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with the provisions of this section or with the rules and regulations issued under this section.

(l) Where a State has enacted or hereafter enacts laws relating to matters covered by this section, which provide for standards equal to or more stringent than the provisions of this section or than the rules and regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section.

#### SUBPART 3<sup>1</sup>—ELECTRONIC PRODUCT RADIATION CONTROL

##### DECLARATION OF PURPOSE

42 U.S.C. 263b

SEC. 354. The Congress hereby declares that the public health and safety must be protected from the dangers of electronic product radiation. Thus, it is the purpose of this subpart to provide for the establishment by the Secretary of an electronic product radiation control program which shall include the development and administration of performance standards to control the emission of elec-

<sup>1</sup> Sec. 4 of P.L. 90-602, which added subpart 3, states that subpart 3 shall not be construed as superseding or limiting the functions, under any other provision of law, of any officer or agency of the United States.



tronic product radiation from electronic products and the undertaking by public and private organizations of research and investigation into the effects and control of such radiation emissions.

#### DEFINITIONS

SEC. 355. As used in this subpart—

42 U.S.C. 263c

(1) the term “electronic product radiation” means—

(A) any ionizing or non-ionizing electromagnetic or particulate radiation, or

(B) any sonic, infrasonic, or ultrasonic wave, which is emitted from an electronic product as the result of the operation of an electronic circuit in such product;

(2) the term “electronic product” means (A) any manufactured or assembled product which, when in operation, (i) contains or acts as part of an electronic circuit and (ii) emits (or in the absence of effective shielding or other controls would emit) electronic product radiation, or (B) any manufactured or assembled article which is intended for use as a component, part, or accessory of a product described in clause (A) and which when in operation emits (or in the absence of effective shielding or other controls would emit) such radiation;

(3) the term “manufacturer” means any person engaged in the business of manufacturing, assembling, or importing of electronic products;

(4) the term “commerce” means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia; and

(5) the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa.

#### ELECTRONIC PRODUCT RADIATION CONTROL PROGRAM

SEC. 356. (a) The Secretary shall establish and carry out an electronic product radiation control program designed to protect the public health and safety from electronic product radiation. As a part of such program, he shall—

42 U.S.C. 263d

(1) pursuant to section 358, develop and administer performance standards for electronic products;

(2) plan, conduct, coordinate, and support research, development, training, and operational activities to minimize the emissions of and the exposure of people to, unnecessary electronic product radiation;

(3) maintain liaison with and receive information from other Federal and State departments and agencies with related interests, professional organizations, industry, industry and labor associations, and other organizations on present and future potential electronic product radiation;

(4) study and evaluate emissions of, and conditions of exposure to, electronic product radiation and intense magnetic fields;

(5) develop, test, and evaluate the effectiveness of procedures and techniques for minimizing exposure to electronic product radiation; and

(6) consult and maintain liaison with the Secretary of Commerce, the Secretary of Defense, the Secretary of Labor, the Atomic Energy Commission, and other appropriate Federal departments and agencies on (A) techniques, equipment, and programs for testing and evaluating electronic product radiation, and (B) the development of performance standards pursuant to section 358 to control such radiation emissions.

(b) In carrying out the purposes of subsection (a), the Secretary is authorized to—

(1) (A) collect and make available, through publications and other appropriate means, the results of, and other information concerning, research and studies relating to the nature and extent of the hazards and control of electronic product radiation; and (B) make such recommendations relating to such hazards and control as he considers appropriate;

(2) make grants to public and private agencies, organizations, and institutions, and to individuals for the purposes stated in paragraphs (2), (4), and (5) of subsection (a) of this section;

(3) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5); and

(4) procure (by negotiation or otherwise) electronic products for research and testing purposes, and sell or otherwise dispose of such products.

(c) (1) Each recipient of assistance under this subpart pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that

portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to the grants or contracts entered into under this subpart under other than competitive bidding procedures.

#### STUDIES BY THE SECRETARY

SEC. 357. (a) The Secretary shall conduct the following studies, and shall make a report or reports of the results of such studies to the Congress on or before January 1, 1970, and from time to time thereafter as he may find necessary, together with such recommendations for legislation as he may deem appropriate: 42 U.S.C. 263e

(1) A study of present State and Federal control of health hazards from electronic product radiation and other types of ionizing radiation, which study shall include, but not be limited to—

(A) control of health hazards from radioactive materials other than materials regulated under the Atomic Energy Act of 1954;

(B) any gaps and inconsistencies in present controls;

(C) the need for controlling the sale of certain used electronic products, particularly antiquated X-ray equipment, without upgrading such products to meet the standards for new products or separate standards for used products;

(D) measures to assure consistent and effective control of the aforementioned health hazards;

(E) measures to strengthen radiological health programs of State governments; and

(F) the feasibility of authorizing the Secretary to enter into arrangements with individual States or groups of States to define their respective functions and responsibilities for the control of electronic product radiation and other ionizing radiation;

(2) A study to determine the necessity for the development of standards for the use of nonmedical electronic products for commercial and industrial purposes; and

(3) A study of the development of practicable procedures for the detection and measurement of electronic product radiation which may be emitted from electronic products manufactured or imported prior to the effective date of any applicable standard established pursuant to this subpart.

(b) In carrying out these studies, the Secretary shall invite the participation of other Federal departments



and agencies having related responsibilities and interests, State governments—particularly those of States which regulate radioactive materials under section 274 of the Atomic Energy Act of 1954, as amended, and interested professional, labor, and industrial organizations. Upon request from congressional committees interested in these studies, the Secretary shall keep these committees currently informed as to the progress of the studies and shall permit the committees to send observers to meetings of the study groups.

(c) The Secretary or his designee shall organize the studies and the participation of the invited participants as he deems best. Any dissent from the findings and recommendations of the Secretary shall be included in the report if so requested by the dissenter.

#### PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS

42 U.S.C. 263f

SEC. 358. (a) (1) The Secretary shall by regulation prescribe performance standards for electronic products to control the emission of electronic product radiation from such products if he determines that such standards are necessary for the protection of the public health and safety. Such standards may include provisions for the testing of such products and the measurement of their electronic product radiation emissions, may require the attachment of warning signs and labels, and may require the provision of instructions for the installation, operation, and use of such products. Such standards may be prescribed from time to time whenever such determinations are made, but the first of such standards shall be prescribed prior to January 1, 1970. In the development of such standards, the Secretary shall consult with Federal and State departments and agencies having related responsibilities or interests and with appropriate professional organizations and interested persons, including representatives of industries and labor organizations which would be affected by such standards, and shall give consideration to—

(A) the latest available scientific and medical data in the field of electronic product radiation;

(B) the standards currently recommended by (i) other Federal agencies having responsibilities relating to the control and measurement of electronic product radiation, and (ii) public or private groups having an expertise in the field of electronic product radiation;

(C) the reasonableness and technical feasibility of such standards as applied to a particular electronic product;

(D) the adaptability of such standards to the need for uniformity and reliability of testing and measuring procedures and equipment; and

(E) in the case of a component, or accessory described in paragraph (2) (B) of section 355, the performance of such article in the manufactured or assembled product for which it is designed.

(2) The Secretary may prescribe different and individual performance standards, to the extent appropriate and feasible, for different electronic products so as to recognize their different operating characteristics and uses.

(3) The performance standards prescribed under this section shall not apply to any electronic product which is intended solely for export if (A) such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that such product is intended for export, and (B) such product meets all the applicable requirements of the country to which such product is intended for export.

(4) The Secretary may by regulation amend or revoke any performance standard prescribed under this section.

(5) The Secretary may exempt from the provisions of this section any electronic product intended for use by departments or agencies of the United States provided such department or agency has prescribed procurement specifications governing emissions of electronic product radiation and provided further that such product is of a type used solely or predominantly by departments or agencies of the United States.

(b) The provisions of subchapter II of chapter 5 of title 5 of the United States Code (relating to the administrative procedure for rulemaking), and of chapter 7 of such title (relating to judicial review), shall apply with respect to any regulation prescribing, amending, or revoking any standard prescribed under this section.

(c) Each regulation prescribing, amending, or revoking a standard shall specify the date on which it shall take effect which, in the case of any regulation prescribing, or amending any standard, may not be sooner than one year or not later than two years after the date on which such regulation is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier or later date shall apply.

(d) (1) In a case of actual controversy as to the validity of any regulation issued under this section prescribing, amending, or revoking a performance standard, any person who will be adversely affected by such regulation when it is effective may at any time prior to the sixtieth day after such regulation is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such regulation. A copy of the

petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the regulation, as provided in section 2112 of title 28 of the United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original regulation, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the regulation in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief as provided in such chapter.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(e) A certified copy of the transcript of the record and administrative proceedings under this section shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this subpart, irrespective of whether proceedings with respect to the regulation have previously been initiated or become final under this section.

(f) (1) (A) The Secretary shall establish a Technical Electronic Product Radiation Safety Standards Committee (hereafter in this subpart referred to as the "Com-



mittee") which he shall consult before prescribing any standard under this section. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of electronic product radiation safety, and shall be composed of fifteen members each of whom shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety, as follows:

(i) Five members shall be selected from governmental agencies, including State and Federal Governments;

(ii) Five members shall be selected from the affected industries after consultation with industry representatives; and

(iii) Five members shall be selected from the general public, of which at least one shall be a representative of organized labor.

(B) The Committee may propose electronic product radiation safety standards to the Secretary for his consideration. All proceedings of the Committee shall be recorded and the record of each such proceeding shall be available for public inspection.

(2) Payments to members of the Committee who are not officers or employees of the United States pursuant to subsection (c) of section 208 of this Act shall not render members of the Committee officers or employees of the United States for any purpose.

(g) The Secretary shall review and evaluate on a continuing basis testing programs carried out by industry to assure the adequacy of safeguards against hazardous electronic product radiation and to assure that electronic products comply with standards prescribed under this section.

(h) Every manufacturer of an electronic product to which is applicable a standard in effect under this section shall furnish to the distributor or dealer at the time of delivery of such product, in the form of a label or tag permanently affixed to such product or in such manner as approved by the Secretary, the certification that such product conforms to all applicable standards under this section. Such certification shall be based upon a test, in accordance with such standard, of the individual article to which it is attached or upon a testing program which is in accord with good manufacturing practice and which has not been disapproved by the Secretary (in such manner as he shall prescribe by regulation) on the grounds that it does not assure the adequacy of safeguards against hazardous electronic product radiation or that it does not assure that electronic products comply with the standards prescribed under this section.

NOTIFICATION OF DEFECTS IN, AND REPAIR OR REPLACEMENT  
OF, ELECTRONIC PRODUCTS

42 U.S.C. 263g

SEC. 359. (a)(1) Every manufacturer of electronic products, who discovers that an electronic product produced, assembled, or imported by him has a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation, or that an electronic product produced, assembled, or imported by him on or after the effective date of an applicable standard prescribed pursuant to section 358 fails to comply with such standard, shall immediately notify the Secretary of such defect or failure to comply if such product has left the place of manufacture and shall (except as authorized by paragraph (2)) with reasonable promptness furnish notification of such defect or failure to the persons (where known to the manufacturer) specified in subsection (b) of this section.

(2) If, in the opinion of such manufacturer, the defect or failure to comply is not such as to create a significant risk of injury, including genetic injury, to any person, he may, at the time of giving notice to the Secretary of such defect or failure to comply, apply to the Secretary for an exemption from the requirement of notice to the persons specified in subsection (b). If such application states reasonable grounds for such exemption, the Secretary shall afford such manufacturer an opportunity to present his views and evidence in support of the application, the burden of proof being on the manufacturer. If, after such presentation, the Secretary is satisfied that such defect or failure to comply is not such as to create a significant risk of injury, including genetic injury, to any person, he shall exempt such manufacturer from the requirement of notice to the persons specified in subsection (b) of this section and from the requirements of repair or replacement imposed by subsection (f) of this section.

(b) The notification (other than to the Secretary) required by paragraph (1) of subsection (a) of this section shall be accomplished—

(1) by certified mail to the first purchaser of such product for purposes other than resale, and to any subsequent transferee of such product; and

(2) by certified mail or other more expeditious means to the dealers or distributors of such manufacturer to whom such product was delivered.

(c) The notifications required by paragraph (1) of subsection (a) of this section shall contain a clear description of such defect or failure to comply with an applicable standard, an evaluation of the hazard reasonably related to such defect or failure to comply, and a statement of the measures to be taken to repair such defect. In the case of a notification to a person referred to in subsection (b) of this section, the notification shall

also advise the person of his rights under subsection (f) of this section.

(d) Every manufacturer of electronic products shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers or distributors of such manufacturer or to purchasers (or subsequent transferees) of electronic products of such manufacturer regarding any such defect in such product or any such failure to comply with a standard applicable to such product. The Secretary shall disclose to the public so much of the information contained in such notice or other information obtained under section 360A as he deems will assist in carrying out the purposes of this subpart, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code unless he determines that it is necessary to carry out the purposes of this subpart.

(e) If through testing, inspection, investigation, or research carried out pursuant to this subpart, or examination of reports submitted pursuant to section 360A, or otherwise, the Secretary determines that any electronic product—

(1) does not comply with an applicable standard prescribed pursuant to section 358; or

(2) contains a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation;

he shall immediately notify the manufacturer of such product of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not exist or does not relate to safety of use of the product by reason of the emission of such radiation hazard. If after such presentation by the manufacturer the Secretary determines that such product does not comply with an applicable standard prescribed pursuant to section 358, or that it contains a defect which relates to the safety of use of such product by reason of the emission of electronic product radiation, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the persons specified in paragraphs (1) and (2) of subsection (b) of this section (where known to the manufacturer), unless the manufacturer has applied for an exemption from the requirement of such notification on the ground specified in paragraph (2) of subsection (a) and the Secretary is satisfied that such noncompliance or defect is not such as to create a significant risk of injury, including genetic injury, to any person.



(f) If any electronic product is found under subsection (a) or (e) to fail to comply with an applicable standard prescribed under this subpart or to have a defect which relates to the safety of use of such product, and the notification specified in subsection (c) is required to be furnished on account of such failure or defect, the manufacturer of such product shall (1) without charge, bring such product into conformity with such standard or remedy such defect and provide reimbursement for any expenses for transportation of such product incurred in connection with having such product brought into conformity or having such defect remedied, (2) replace such product with a like or equivalent product which complies with each applicable standard prescribed under this subpart and which has no defect relating to the safety of its use, or (3) make a refund of the cost of such product. The manufacturer shall take the action required by this subsection in such manner, and with respect to such persons, as the Secretary by regulations shall prescribe.

(g) This section shall not apply to any electronic product that was manufactured before the date of the enactment of this subpart.

#### IMPORTS

42 U.S.C. 263h

SEC. 360. (a) Any electronic product offered for importation into the United States which fails to comply with an applicable standard prescribed under this subpart, or to which is not affixed a certification in the form of a label or tag in conformity with section 358(h) shall be refused admission into the United States. The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon the latter's request, samples of electronic products which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may have a hearing before the Secretary of Health, Education, and Welfare. If it appears from an examination of such samples or otherwise that any electronic product fails to comply with applicable standards prescribed pursuant to section 358, then, unless subsection (b) of this section applies and is complied with, (1) such electronic product shall be refused admission, and (2) the Secretary of the Treasury shall cause the destruction of such electronic product unless such article is exported, under regulations prescribed by the Secretary of the Treasury, within 90 days after the date of notice of refusal of admission or within such additional time as may be permitted by such regulations.

(b) If it appears to the Secretary of Health, Education, and Welfare that any electronic product refused admission pursuant to subsection (a) of this section can be brought into compliance with applicable standards

prescribed pursuant to section 358, final determination as to admission of such electronic product may be deferred upon filing of timely written application by the owner or consignee and the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as the Secretary of Health, Education, and Welfare may by regulation prescribe. If such application is filed and such bond is executed the Secretary of Health, Education, and Welfare may, in accordance with rules prescribed by him, permit the applicant to perform such operations with respect to such electronic product as may be specified in the notice of permission.

(c) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of operations provided for in subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any electronic product refused admission pursuant to subsection (a) of this section, shall be paid by the owner or consignee, and, in event of default, shall constitute a lien against any future importations made by such owner or consignee.

(d) It shall be the duty of every manufacturer offering an electronic product for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of said manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon said manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon said manufacturer, and in default of such designation of such agent, service of process, notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this subpart or any standards prescribed pursuant to this subpart may be made by posting such process, notice, order, requirement, or decision in the Office of the Secretary or in a place designated by him by regulation.

#### **[INSPECTION AND REPORTS]**

SEC. 360A. (a) If the Secretary finds for good cause that the methods, tests, or programs related to electronic product radiation safety in a particular factory, warehouse, or establishment in which electronic products are manufactured or held, may not be adequate or reliable,

officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are thereafter authorized (1) to enter, at reasonable times, any area in such factory, warehouse, or establishment in which the manufacturer's tests (or testing programs) required by section 358(h) are carried out, and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, the facilities and procedures within such area which are related to electronic product radiation safety. Each such inspection shall be commenced and completed with reasonable promptness. In addition to other grounds upon which good cause may be found for purposes of this subsection, good cause will be considered to exist in any case where the manufacturer has introduced into commerce any electronic product which does not comply with an applicable standard prescribed under this subpart and with respect to which no exemption from the notification requirements has been granted by the Secretary under section 359(a)(2) or 359(e).

(b) Every manufacturer of electronic products shall establish and maintain such records (including testing records), make such reports, and provide such information, as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this subpart and standards prescribed pursuant to this subpart and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with standards prescribed pursuant to this subpart.

(c) Every manufacturer of electronic products shall provide to the Secretary such performance data and other technical data related to safety as may be required to carry out the purposes of this subpart. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data at the time of original purchase to the ultimate purchaser of the electronic product, as he determines necessary to carry out the purposes of this subpart after consulting with the affected industry.

(d) Accident and investigation reports made under this subpart by any officer, employee, or agent of the Secretary shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the fact developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individ-



uals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) The Secretary or his representative shall not disclose any information reported to or otherwise obtained by him, pursuant to subsection (a) or (b) of this section, which concerns any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, except that such information may be disclosed to other officers or employees of the Department and of other agencies concerned with carrying out this subpart or when relevant in any proceeding under this subpart. Nothing in this section shall authorize the withholding of information by the Secretary, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(f) The Secretary may by regulation (1) require dealers and distributors of electronic products, to which there are applicable standards prescribed under this subpart and the retail prices of which is not less than \$50, to furnish manufacturers of such products such information as may be necessary to identify and locate, for purposes of section 359, the first purchasers of such products for purposes other than resale, and (2) require manufacturers to preserve such information. Any regulation establishing a requirement pursuant to clause (1) of the preceding sentence shall (A) authorize such dealers and distributors to elect, in lieu of immediately furnishing such information to the manufacturer, to hold and preserve such information until advised by the manufacturer or Secretary that such information is needed by the manufacturer for purposes of section 359, and (B) provide that the dealer or distributor shall, upon making such election, give prompt notice of such election (together with information identifying the notifier and the product) to the manufacturer and shall, when advised by the manufacturer or Secretary, of the need therefor for the purposes of section 359, immediately furnish the manufacturer with the required information. If a dealer or distributor discontinues the dealing in or distribution of electronic products, he shall turn the information over to the manufacturer. Any manufacturer receiving information pursuant to this subsection concerning first purchasers of products for purposes other than resale shall treat it as confidential and may use it only if necessary for the purpose of notifying persons pursuant to section 359(a).

#### PROHIBITED ACTS

SEC. 360B. (a) It shall be unlawful—

42 U.S.C. 263J

(1) for any manufacturer to introduce, or to deliver for introduction, into commerce, or to import

into the United States, any electronic product which does not comply with an applicable standard prescribed pursuant to section 358;

(2) for any person to fail to furnish any notification or other material or information required by section 359 or 360A; or to fail to comply with the requirements of section 359(f);

(3) for any person to fail or to refuse to establish or maintain records required by this subpart or to permit access by the Secretary or any of his duly authorized representatives to, or the copying of, such records, or to permit entry or inspection, as required by or pursuant to section 360A;

(4) for any person to fail or to refuse to make any report required pursuant to section 360A(b) or to furnish or preserve any information required pursuant to section 360A(f); or

(5) for any person (A) to fail to issue a certification as required by section 358(h), or (B) to issue such a certification when such certification is not based upon a test or testing program meeting the requirements of section 358(h) or when the issuer, in the exercise of due care, would have reason to know that such certification is false or misleading in a material respect.

(b) The Secretary may exempt any electronic product, or class thereof, from all or part of subsection (a), upon such conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

#### ENFORCEMENT

42 U.S.C. 263k

SEC. 360C. (a) The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of section 360B and to restrain dealers and distributors of electronic products from selling or otherwise disposing of electronic products which do not conform to an applicable standard prescribed pursuant to section 358 except when such products are disposed of by returning them to the distributor or manufacturer from whom they were obtained. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce the provisions of subsection (b) of this section.

(b) (1) Any person who violates section 360B shall be subject to a civil penalty of not more than \$1,000. For purposes of this subsection, any such violation shall with respect to each electronic product involved, or with respect to each act or omission made unlawful by section 360B, constitute a separate violation, except that the

maximum civil penalty imposed on any person under this subsection for any related series of violations shall not exceed \$300,000.

(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the United States to the person charged.

(c) Actions under subsections (a) and (b) of this section may be brought in the district court of the United States for the district wherein any act or omission or transaction constituting the violation occurred, or in such court for the district where the defendant is found or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Nothing in this subpart shall be construed as requiring the Secretary to report for the institution of proceedings minor violations of this subpart whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

(e) Except as provided in the first sentence of section 360F, compliance with this subpart or any regulations issued thereunder shall not relieve any person from liability at common law or under statutory law.

(f) The remedies provided for in this subpart shall be in addition to and not in substitution for any other remedies provided by law.

#### ANNUAL REPORT

SEC. 360D. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this subpart for the preceding calendar year. Such report shall include— 42 U.S.C. 2631

(1) a thorough appraisal (including statistical analyses, estimates, and long-term projections) of the incidence of biological injury and effects, including genetic effects, to the population resulting from exposure to electronic product radiation, with a breakdown, insofar as practicable, among the various sources of such radiation;

(2) a list of Federal electronic product radiation control standards prescribed or in effect in such year, with identification of standards newly prescribed during such year;

(3) an evaluation of the degree of observance of applicable standards, including a list of enforcement



actions, court decisions, and compromises of alleged violations by location and company name;

(4) a summary of outstanding problems confronting the administration of this subpart in order of priority;

(5) an analysis and evaluation of research activities completed as a result of Government and private sponsorship, and technological progress for safety achieved during such year;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this subpart;

(7) the extent to which technical information was disseminated to the scientific, commercial, and labor community and consumer-oriented information was made available to the public; and

(8) the extent of cooperation between Government officials and representatives of industry and other interested parties in the implementation of this subpart including a log or summary of meetings held between Government officials and representatives of industry and other interested parties.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of electronic product radiation control and to strengthen the national electronic product radiation control program.

#### FEDERAL-STATE COOPERATION

42 U.S.C. 263m

SEC. 360E. The Secretary is authorized (1) to accept from State and local authorities engaged in activities related to health or safety or consumer protection, on a reimbursable basis or otherwise, any assistance in the administration and enforcement of this subpart which he may request and which they may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and (2) he may, for the purpose of conducting examinations, investigations, and inspections, commission any officer or employee of any such authority as an officer of the Department.

#### EFFECT ON STATE STANDARDS

42 U.S.C. 263n

SEC. 360F. Whenever any standard prescribed pursuant to section 358 with respect to an aspect of performance of an electronic product is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, any standard which is applicable to the same aspect of performance of such product and which is not identical to the Federal standard. Nothing in this subpart shall be construed to

prevent the Federal Government or the government of any State or political subdivision thereof from establishing a requirement with respect to emission of radiation from electronic products procured for its own use if such requirement imposes a more restrictive standard than that required to comply with the otherwise applicable Federal standard.

## PART G—QUARANTINE AND INSPECTION

### CONTROL OF COMMUNICABLE DISEASES

SEC. 361. (a) The Surgeon General, with the approval of the Secretary is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary. 42 U.S.C. 264

(b) Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c) Except as provided in subsection (d), regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) On recommendation of the National Advisory Health Council, regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary. For purposes of this subsection, the term "State" includes, in addition to the several States, only the District of Columbia.

SUSPENSION OF ENTRIES AND IMPORTS FROM DESIGNATED  
PLACES

42 U.S.C. 265

SEC. 362. Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.

SPECIAL POWERS IN TIME OF WAR

42 U.S.C. 266

SEC. 363.<sup>1</sup> To protect the military and naval forces and war workers of the United States, in time of war, against any communicable disease specified in Executive orders as provided in subsection (b) of section 361, the Surgeon General, on recommendation of the National Advisory Health Council, is authorized to provide by regulations for the apprehension and examination, in time of war, of any individual reasonably believed (1) to be infected with such disease in a communicable stage and (2) to be a probable source of infection to members of the armed forces of the United States or to individuals engaged in the production or transportation of arms, munitions, ships, food, clothing, or other supplies for the armed forces. Such regulations may provide that if upon examination any such individual is found to be so infected, he may be detained for such time and in such manner as may be reasonably necessary.

QUARANTINE STATIONS

42 U.S.C. 267

SEC. 364. (a) Except as provided in title II of the Act of June 15, 1917, as amended (U.S.C., 1940 edition, title 50, secs. 191-194), the Surgeon General shall control, direct, and manage all United States quarantine stations, grounds, and anchorages, designate their boundaries, and designate the quarantine officers to be in charge thereof. With the approval of the President he shall from time to time select suitable sites for and establish such additional stations, grounds, and anchorages in the States and possessions of the United States as in his judgment are

<sup>1</sup> Under sec. 3 of P.L. 239, 80th Congress, the date of July 25, 1947, is deemed, for purposes of this section, to be the date of termination of "any state of war heretofore cleared by the Congress".



necessary to prevent the introduction of communicable diseases into the States and possessions of the United States.

(b) The Surgeon General shall establish the hours during which quarantine service shall be performed at each quarantine station, and, upon application by any interested party, may establish quarantine inspection during the twenty-four hours of the day, or any fraction thereof, at such quarantine stations as, in his opinion, require such extended service. He may restrict the performance of quarantine inspection to hours of daylight for such arriving vessels as cannot, in his opinion, be satisfactorily inspected during hours of darkness. No vessel shall be required to undergo quarantine inspection during the hours of darkness, unless the quarantine officer at such quarantine station shall deem an immediate inspection necessary to protect the public health. Uniformity shall not be required in the hours during which quarantine inspection may be obtained at the various ports of the United States.

(c) The Surgeon General shall fix a reasonable rate of extra compensation for overtime services of employees of the United States Public Health Service, Foreign Quarantine Division, performing overtime duties including the operation of vessels, in connection with the inspection or quarantine treatment of persons (passengers and crews), conveyances, or goods arriving by land, water, or air in the United States or any place subject to the jurisdiction thereof, hereinafter referred to as "employees of the Public Health Service", when required to be on duty between the hours of 6 o'clock postmeridian and 6 o'clock antemeridian (or between the hours of 7 o'clock postmeridian and 7 o'clock antemeridian at stations which have a declared workday of from 7 o'clock antemeridian to 7 o'clock postmeridian), or on Sundays or holidays, such rate, in lieu of compensation under any other provision of law, to be fixed at two times the basic hourly rate for each hour that the overtime extends beyond 6 o'clock (or 7 o'clock as the case may be) postmeridian, and two times the basic hourly rate for each overtime hour worked on Sundays or holidays. As used in this subsection, the term "basic hourly rate" shall mean the regular basic rate of pay which is applicable to such employees for work performed within their regular scheduled tour of duty.

(d)(1) The said extra compensation shall be paid to the United States by the owner, agent, consignee, operator, or master or other person in charge of any conveyance, for whom, at his request, services as described in this subsection (hereinafter referred to as overtime service) are performed. If such employees have been ordered to report for duty and have so reported, and

the requested services are not performed by reason of circumstances beyond the control of the employees concerned, such extra compensation shall be paid on the same basis as though the overtime services had actually been performed during the period between the time the employees were ordered to report for duty and did so report, and the time they were notified that their services would not be required, and in any case as though their services had continued for not less than one hour. The Surgeon General with the approval of the Secretary of Health, Education, and Welfare may prescribe regulations requiring the owner, agent, consignee, operator, or master or other person for whom the overtime services are performed to file a bond in such amounts and containing such conditions and with such sureties, or in lieu of a bond, to deposit money or obligations of the United States in such amount, as will assure the payment of charges under this subsection, which bond or deposit may cover one or more transactions or all transactions during a specified period: *Provided*, That no charges shall be made for services performed in connection with the inspection of (1) persons arriving by international highways, ferries, bridges, or tunnels, or the conveyances in which they arrive, or (2) persons arriving by aircraft or railroad trains, the operations of which are covered by published schedules, or the aircraft or trains in which they arrive, or (3) persons arriving by vessels operated between Canadian ports and ports on Puget Sound or operated on the Great Lakes and connecting waterways, the operations of which are covered by published schedules, or the vessels in which they arrive.

(2) Moneys collected under this subsection shall be deposited in the Treasury of the United States to the credit of the appropriation charged with the expense of the services, and the appropriations so credited shall be available for the payment of such compensation to the said employees for services so rendered.

#### CERTAIN DUTIES OF CONSULAR AND OTHER OFFICERS

42 U.S.C. 268

SEC. 365. (a) Any consular or medical officer of the United States, designated for such purpose by the Secretary, shall make reports to the Surgeon General, on such forms and at such intervals as the Surgeon General may prescribe, of the health conditions at the port or place at which such officer is stationed.

(b) It shall be the duty of the customs officers and of Coast Guard officers to aid in the enforcement of quarantine rules and regulations; but no additional compensation, except actual and necessary traveling expenses, shall be allowed any such officer by reason of such services.

## BILLS OF HEALTH

42 U.S.C. 269

SEC. 366. (a) Except as otherwise prescribed in regulations, any vessel at any foreign port or place clearing or departing for any port or place in a State or possession shall be required to obtain from the consular officer of the United States or from the Public Health Service officer, or other medical officer of the United States designated by the Surgeon General, at the port or place of departure, a bill of health in duplicate, in the form prescribed by the Surgeon General. The President, from time to time, shall specify the ports at which a medical officer shall be stationed for this purpose. Such bill of health shall set forth the sanitary history and condition of said vessel, and shall state that it has in all respects complied with the regulations prescribed pursuant to subsection (c). Before granting such duplicate bill of health, such consular or medical officer shall be satisfied that the matters and things therein stated are true. The consular officer shall be entitled to demand and receive the fees for bills of health and such fees shall be established by regulation.

(b) Original bills of health shall be delivered to the collectors of customs at the port of entry. Duplicate copies of such bills of health shall be delivered at the time of inspection to quarantine officers at such port. The bills of health herein prescribed shall be considered as part of the ship's papers, and when duly certified to by the proper consular or other officer of the United States, over his official signature and seal, shall be accepted as evidence of the statements therein contained in any court of the United States.

(c) The Surgeon General shall from time to time prescribe regulations, applicable to vessels referred to in subsection (a) of this section for the purpose of preventing the introduction into the States or possessions of the United States of any communicable disease by securing the best sanitary condition of such vessels, their cargoes, passengers, and crews. Such regulations shall be observed by such vessels prior to departure, during the course of the voyage, and also during inspection, disinfection, or other quarantine procedure upon arrival at any United States quarantine station.

(d) The provisions of subsections (a) and (b) of this section shall not apply to vessels plying between such foreign ports on or near the frontiers of the United States and ports of the United States as are designated by treaty.

(e) It shall be unlawful for any vessel to enter any port in any State or possession of the United States to discharge its cargo, or land its passengers, except upon a certificate of the quarantine officer that regulations



prescribed under subsection (c) have in all respects been complied with by such officer, the vessel, and its master. The master of every such vessel shall deliver such certificate to the collector of customs at the port of entry, together with the original bill of health and other papers of the vessel. The certificate required by this subsection shall be procurable from the quarantine officer, upon arrival of the vessel at the quarantine station and satisfactory inspection thereof, at any time within which quarantine services are performed at such station.

#### CIVIL AIR NAVIGATION AND CIVIL AIRCRAFT

42 U.S.C. 270

SEC. 367. The Surgeon General is authorized to provide by regulations for the application to air navigation and aircraft of any of the provisions of sections 364, 365, and 366 and regulations prescribed thereunder (including penalties and forfeitures for violations of such sections and regulations), to such extent and upon such conditions as he deems necessary for the safeguarding of the public health.

#### PENALTIES

42 U.S.C. 271

SEC. 368. (a) Any person who violates any regulation prescribed under sections 361, 362, or 363, or any provision of section 366 or any regulation prescribed thereunder, or who enters or departs from the limits of any quarantine station, ground, or anchorage in disregard of quarantine rules and regulations or without permission of the quarantine officer in charge, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

(b) Any vessel which violates section 366, or any regulations thereunder or under section 364, or which enters within or departs from the limits of any quarantine station, ground, or anchorage in disregard of the quarantine rules and regulations or without permission of the officer in charge, shall forfeit to the United States not more than \$5,000, the amount to be determined by the court, which shall be a lien on such vessel, to be recovered by proceedings in the proper district court of the United States. In all such proceedings the United States attorney shall appear on behalf of the United States; and all such proceedings shall be conducted in accordance with the rules and laws governing cases of seizure of vessels for violation of the revenue laws of the United States.

(c) With the approval of the Secretary, the Surgeon General may, upon application therefor, remit or mitigate any forfeiture provided for under subsection (b) of this section, and he shall have authority to ascertain the facts upon all such applications.

## ADMINISTRATION OF OATHS

SEC. 369. Medical officers of the United States, when performing duties as quarantine officers at any port or place within the United States, are authorized to take declarations and administer oaths in matters pertaining to the administration of the quarantine laws and regulations of the United States.

42 U.S.C. 272

## PART H—GRANTS TO ALASKA FOR MENTAL HEALTH

## GRANTS FOR ALASKA MENTAL HEALTH PROGRAM

SEC. 371.<sup>1</sup> \* \* \*

## PAYMENTS FOR CONSTRUCTION OF HOSPITAL FACILITIES

SEC. 372. (a) There is authorized to be appropriated an amount not exceeding the total sum of \$6,500,000, to remain available until expended, to enable the Surgeon General to make payments to Alaska as the total contribution of the Federal Government to be used in defraying the cost of construction of hospital and other facilities in Alaska needed for the carrying out of a comprehensive mental health program.

42 U.S.C. 274

(b) Such facilities shall be scheduled for construction in accordance with a comprehensive construction program, developed by Alaska in consultation with the Public Health Service and approved by the Surgeon General. Projects shall be constructed in accordance with such approved program and in accordance with plans and specifications for the project approved by the Surgeon General.

(c) Upon certification by Alaska, based upon inspection by it, that work has been performed upon a project, or purchases have been made in accordance with approved plans and specifications, and that payment of an installment is due, the Surgeon General shall certify such installment for payment: *Provided however*, That the Surgeon General may cause the project to be inspected at any time, and if such inspection indicates that the project is not being constructed in accordance with approved plans and specifications, he may, after notice and affording opportunity for hearing, withhold further payment until he finds that adequate corrective measures have been taken.

(d) The term "cost of construction" means the amount found necessary by the Surgeon General for the construction of a project and includes the construction and initial equipment of buildings (including medical transportation facilities), architects' and engineering fees, the cost

<sup>1</sup> Sec. 371 repealed by sec. 31(b) (1) of P.L. 86-70.

of land acquired specifically for the purpose of the project, and on-site improvements.

(e) If, within twenty years from the date of completion of construction, any hospital or other medical facility constructed with the aid of grants under this section shall cease to be a publicly owned facility operated for the care or treatment of patients under Alaska's mental health program, the United States shall be entitled to recover from Alaska the then value of the hospital or other medical facility, reduced, however, proportionately to the extent to which Alaska may have contributed to the cost of construction thereof.

## PART I—NATIONAL LIBRARY OF MEDICINE

### PURPOSE AND ESTABLISHMENT OF LIBRARY

42 U.S.C. 275

SEC. 381. In order to assist the advancement of medical and related sciences, and to aid the dissemination and exchange of scientific and other information important to the progress of medicine and to the public health, there is hereby established in the Public Health Service a National Library of Medicine (hereinafter referred to in this part as the "Library").

### FUNCTIONS OF THE LIBRARY

42 U.S.C. 276

SEC. 382. (a) The Secretary, through the Library and subject to the provisions of subsection (c), shall—

(1) acquire and preserve books, periodicals, prints, films, recordings, and other library materials, pertinent to medicine;

(2) organize the materials specified in clause (1) by appropriate cataloging, indexing, and bibliographical listing;

(3) publish and make available the catalogs, indexes, and bibliographies referred to in clause (2);

(4) make available, through loans, photographic or other copying procedures or otherwise, such materials in the Library as he deems appropriate;

(5) provide reference and research assistance; and

(6) engage in such other activities in furtherance of the purposes of this part as he deems appropriate and the Library's resources permit.

(b) The Secretary may exchange, destroy, or otherwise dispose of any books, periodicals, films, and other library materials not needed for the permanent use of the Library.

(c) The Secretary is authorized, after obtaining the advice and recommendations of the Board (established under section 383), to prescribe rules under which the Library will provide copies of its publications or ma-



terials, or will make available its facilities for research or its bibliographic, reference, or other services, to public and private agencies and organizations, institutions, and individuals. Such rules may provide for making available such publications, materials, facilities, or services (1) without charge as a public service, or (2) upon a loan, exchange, or charge basis, or (3) in appropriate circumstances, under contract arrangements made with a public or other nonprofit agency, organization, or institution.

#### BOARD OF REGENTS

42 U.S.C. 277

SEC. 383. (a) There is hereby established in the Public Health Service a Board of Regents of the National Library of Medicine (referred to in this part as the "Board") consisting of the Surgeons General of the Public Health Service, the Army, the Navy, and the Air Force, the Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration, the Assistant Director for Biological and Medical Sciences of the National Science Foundation, and the Librarian of Congress, all of whom shall be ex officio members and ten members appointed by the President, by and with the advice and consent of the Senate. The ten appointed members shall be selected from among leaders in the various fields of the fundamental sciences, medicine, dentistry, public health, hospital administration, pharmacology, or scientific or medical library work, or in public affairs. At least six of the appointed members shall be selected from among leaders in the fields of medical, dental, or public health research or education. The Board shall annually elect one of the appointed members to serve as Chairman until the next election. The Secretary shall designate a member of the Library staff to act as executive secretary of the Board.

(b) It shall be the duty of the Board to advise, consult with, and make recommendations to the Secretary on important matters of policy in regard to the Library, including such matters as the acquisition of materials for the Library, the scope, content and organization of the Library's services, and the rules under which its materials, publications, facilities, and services shall be made available to various kinds of users, and the Secretary shall include in his annual report to the Congress a statement covering the recommendations made by the Board and the disposition thereof. The Secretary is authorized to use the services of any member or members of the Board in connection with matters related to the work of the Library, for such periods, in addition to conference periods, as he may determine.

(c) Each appointed member of the Board shall hold office for a term of four years, except that (A) any member appointed to fill a vacancy occurring prior to the ex-

piration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of the members first taking office after the date of enactment of this part shall expire as follows: three at the end of four years after such date, three at the end of three years after such date, two at the end of two years after such date, and two at the end of one year after such date, as designated by the President at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term.

#### GIFTS TO LIBRARY

42 U.S.C. 278      SEC. 384. The provisions of section 501 shall be applicable to the acceptance and administration of gifts made for the benefit of the Library or for carrying out any of its functions, and the Board shall make recommendations to the Secretary of Health, Education, and Welfare relating to establishment within the Library of suitable memorials to the donors.

#### DEFINITIONS

42 U.S.C. 279      SEC. 385. For purposes of this part the terms "medicine" and "medical" shall, except when used in section 383, be understood to include preventive and therapeutic medicine, dentistry, pharmacy, hospitalization, nursing, public health, and the fundamental sciences related thereto, and other related fields of study, research, or activity.

#### LIBRARY FACILITIES

42 U.S.C. 280      SEC. 386. There are hereby authorized to be appropriated sums sufficient for the erection and equipment of suitable and adequate buildings and facilities for use of the Library in carrying out the provisions of this part. The Administrator of General Services is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable site or sites, selected by the Secretary in accordance with the direction of the Board, for such buildings and facilities and to erect thereon, furnish, and equip such buildings and facilities. The sums herein authorized to be appropriated shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work. The Administrator of General Services shall prepare the plans and specifications, make all necessary contracts, and supervise construction.

#### TRANSFER OF ARMED FORCES MEDICAL LIBRARY

42 U.S.C. 280a      SEC. 387. All civilian personnel, equipment, library collections, other personal property, records, and unex-

pended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Bureau of the Budget shall determine to relate primarily to the functions of the Armed Forces Medical Library, are hereby transferred to the Service for use in the administration and operation of this part. Such transfer of property, funds, and personnel, and the other provisions of this part, shall become effective on the first day, occurring not less than thirty days after the date of enactment of this part, which the Director of the Bureau of the Budget determines to be practicable.

#### REGIONAL BRANCHES OF THE NATIONAL LIBRARY OF MEDICINE

SEC. 388. (a) Whenever the Secretary, with the advice of the Board, determines that—

42 U.S.C.  
280a-1

(1) in any geographic area of the United States, there is no regional medical library adequate to serve such area;

(2) under the criteria prescribed in section 397, there is a need for a regional medical library to serve such area; and

(3) because there is located in such area no medical library which, under the provisions of section 397 can feasibly be developed into a regional medical library adequate to serve such area,

he is authorized to establish, as a branch of the National Library of Medicine, a regional medical library to serve the needs of such area.

(b) For the purpose of establishing branches of the National Library of Medicine under this section, there are hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1966, and ending with the fiscal year ending June 30, 1970, such sums, not to exceed \$2,000,000 for any fiscal year, as may be necessary. Sums appropriated pursuant to this section for any fiscal year shall remain available until expended.

#### PART J—ASSISTANCE TO MEDICAL LIBRARIES

##### DECLARATION OF POLICY, STATEMENT OF PURPOSE, AND AUTHORIZATION OF APPROPRIATIONS

SEC. 390. (a) The Congress hereby finds and declares that (1) the unprecedented expansion of knowledge in the health sciences within the past two decades has brought about a massive growth in the quantity, and major changes in the nature of, biomedical information, materials, and publications; (2) there has not been a corresponding growth in the facilities and techniques necessary adequately to coordinate and disseminate among health scientists and practitioners the ever-

42 U.S.C. 280b



increasing volume of knowledge and information which has been developed in the health science field; (3) much of the value of the ever-increasing volume of knowledge and information which has been, and continues to be, developed in the health science field will be lost unless proper measures are taken in the immediate future to develop facilities and techniques necessary to collect, preserve, store, process, retrieve, and facilitate the dissemination and utilization, of such knowledge and information.

(b) It is therefore the policy of this part to—

(1) assist in the training of medical librarians and other information specialists in the health sciences;

(2) assist, through grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, other practitioners, and scientists, in the compilation of existing, and the creation of additional, written matter which will facilitate the distribution and utilization of knowledge and information relating to scientific, social, and cultural advancements in sciences related to health;

(3) assist in the conduct of research, investigations, and demonstrations in the field of medical library science and related activities, and in the development of new techniques, systems, and equipment for processing, storing, retrieving, and distributing information in the sciences related to health;

(4) assist in establishing, expanding, and improving the basic resources of medical libraries and related facilities;

(5) assist in the development of a national system of regional medical libraries each of which would have facilities of sufficient depth and scope to supplement the services of other medical libraries within the region served by it; and

(6) provide financial support to biomedical scientific publications.

(c) For the purpose of grants and contracts under sections 393, 394, 395, 396, and 397, there are authorized to be appropriated \$17,500,000 for the fiscal year ending June 30, 1975, \$20,000,000 for the fiscal year ending June 30, 1976, and \$14,600,000 for the fiscal year ending September 30, 1978.

#### DEFINITIONS

SEC. 391. As used in this part—

(1) the term “sciences related to health” includes medicine, osteopathy, dentistry, and public health, and fundamental and applied sciences when related thereto.

(2) the terms “National Medical Libraries Assistance Advisory Board” and “Board” mean the

Board of Regents of the National Library of Medicine established under section 383(a) of this Act; and

(3) the term "medical library" means a library related to the sciences related to health.

#### NATIONAL MEDICAL LIBRARIES ASSISTANCE BOARD

SEC. 392. (a) The Board of Regents of the National Library of Medicine established pursuant to section 383 (a) shall, in addition to its functions prescribed under section 383, constitute and serve as the National Medical Libraries Assistance Advisory Board (hereinafter in this part referred to as the "Board").

42 U.S.C. 280b-2

(b) The Board shall advise and assist the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this part.

(c) The Secretary is authorized to use the services of any member or members of the Board, in connection with matters related to the administration of this part for such periods, in addition to conference periods, as he may determine.

(d) Appointed members of the Board who are not otherwise in the employ of the United States, while attending conferences of the Board or otherwise serving at the request of the Secretary in connection with the administration of this part, shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 383(d) when attending conferences, traveling, or serving at the request of the Secretary in connection with the administration of part I.

#### GRANTS FOR TRAINING IN MEDICAL LIBRARY SCIENCES

SEC. 393. (a) To carry out the purposes of section 390 (b) (1), the Secretary shall make grants—

42 U.S.C.  
280b-4

(1) to individuals to enable them to accept traineeships and fellowships leading to postbaccalaureate academic degrees in the field of medical library science, in related fields pertaining to sciences related to health, or in the field of the communication of information;

(2) to individuals who are librarians or specialists in information on sciences relating to health, to enable them to undergo intensive training or retraining so as to attain greater competence in their occupations (including competence in the fields of automatic data processing and retrieval);

(3) to assist appropriate public and private non-profit institutions in developing, expanding, and im-

proving, training programs in library science and the field of communications of information pertaining to sciences relating to health; and

(4) to assist in the establishment of internship programs in established medical libraries meeting standards which the Secretary shall prescribe.

(b) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

ASSISTANCE FOR SPECIAL SCIENTIFIC PROJECTS, AND FOR RESEARCH AND DEVELOPMENT IN MEDICAL LIBRARY SCIENCE AND RELATED FIELDS

42 U.S.C.  
280b-5

SEC. 394. (a) To carry out the purposes of section 390 (b) (2), the Secretary shall make grants to physicians and other practitioners in the sciences related to health, to scientists, and to public or nonprofit private institutions on behalf of such physicians, or other practitioners, and scientists for the compilation of existing, or writing of original, contributions relating to scientific, social, or cultural, advancements in sciences related to health. In making such grants, the Secretary shall make appropriate arrangements whereby the facilities of the National Library of Medicine and the facilities of libraries of public and private nonprofit institutions of higher learning may be made available in connection with the projects for which such grants are made.

(b) To carry out the purposes of section 390 (b) (3) the Secretary shall make grants to appropriate public or private nonprofit institutions and enter into contracts with appropriate persons, for purposes of carrying out projects of research, investigations, and demonstrations in the field of medical library science and related activities and for the development of new techniques, systems and equipment, for processing, storing, retrieving, and distributing information pertaining to sciences related to health.

(c) Payment pursuant to grants made under this section may be in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

GRANTS FOR ESTABLISHING, EXPANDING, AND IMPROVING THE BASIC RESOURCES OF MEDICAL LIBRARIES AND RELATED INSTRUMENTALITIES

42 U.S.C.  
280b-7

SEC. 395. (a) To carry out the purposes of section 390 (b) (4), the Secretary shall make grants of money, materials, or both, to public or private nonprofit medical libraries and related scientific communication instru-



mentalities for the purpose of establishing, expanding, and improving their basic medical library or related resources. The uses for which grants so made may be employed include, but are not limited to, the following: (1) acquisition of books, journals, photographs, motion picture and other films, and other similar materials, (2) cataloging, binding, and other services and procedures for processing library resource materials for use by those who are served by the library or related instrumentality, and (3) acquisition of duplication devices, facsimile equipment, film projectors, recording equipment and other equipment to facilitate the use of the resources of the library or related instrumentality by those who are served by it, and (4) introduction of new technologies in medical librarianship.

(b)(1) The amount of any grant under this section to any medical library or related instrumentality shall be determined by the Secretary on the basis of the scope of library or related services provided by such library or instrumentality in relation to the population and purposes served by it. In making a determination of the scope of services served by any medical library or related instrumentality, the Secretary shall take into account the following factors—

(A) the number of graduate and undergraduate students making use of the resources of such library or instrumentality;

(B) the number of physicians and other practitioners in the sciences related to health utilizing the resources of such library or instrumentality;

(C) the type of supportive staffs, if any, available to such library or instrumentality;

(D) the type, size, and qualifications of the faculty of any school with which such library or instrumentality is affiliated;

(E) the staff of any hospital or hospitals or of any clinic or clinics with which such library or instrumentality is affiliated; and

(F) the geographic area served by such library or instrumentality and the availability, within such area, of medical library or related services provided by other libraries or related instrumentalities.

(2) In no case shall any grant under this section to a medical library or related instrumentality for any fiscal year exceed \$200,000; and grants to such medical libraries or related instrumentalities shall be in such amounts as the Secretary may by regulation prescribe with a view to assuring adequate continuing financial support for such libraries or instrumentalities from other sources during and after the period for which Federal assistance is provided.

GRANTS AND CONTRACTS FOR ESTABLISHMENT OF REGIONAL  
MEDICAL LIBRARIES

42 U.S.C.  
280b-8

SEC. 396. (a) To carry out the purposes of section 390(b) (5), the Secretary, with the advice of the Board, shall make grants to existing public or private nonprofit medical libraries so as to enable each of them to serve as the regional medical library for the geographical area in which it is located.

(b) The uses for which grants made under this section may be employed include, but are not limited to, the following—

(1) acquisition of books, journals, and other similar materials;

(2) cataloging, binding, and other procedures for processing library resource materials for use by those who are served by the library;

(3) acquisition of duplicating devices and other equipment to facilitate the use of the resources of the library by those who are served by it;

(4) acquisition of mechanisms and employment of personnel for the speedy transmission of materials from the regional library to local libraries in the geographic area served by the regional library; and

(5) planning for services and activities under this section.

(c) (1) Grants under this section shall be made only to medical libraries which agree (A) to modify and increase their library resources, and to supplement the resources of cooperating libraries in the region, so as to be able to provide adequate supportive services to all libraries in the region as well as to individual users of library services, (B) to provide free loan services to qualified users, and make available photoduplicated or facsimile copies of biomedical materials which qualified requesters may retain.

(2) The Secretary, in awarding grants under this section, shall give priority to medical libraries having the greatest potential of fulfilling the needs for regional medical libraries. In determining the priority to be assigned to any medical library, he shall consider—

(A) the adequacy of the library (in terms of collections, personnel, equipment, and other facilities) as a basis for a regional medical library; and

(B) the size and nature of the population to be served in the region in which the library is located.

(d) Grants under this section for basic resource materials to a library may not exceed 50 per centum of the library's annual operating expense (exclusive of Federal financial assistance under this part) for the preceding year; or in case of the first year in which the library

receives a grant under this section for basic resource materials, 50 per centum of its average annual operating expenses over the past three years (or if it had been in operation for less than three years, its annual operating expenses determined by the Secretary in accordance with regulations prescribed by him).

(e) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installment as the Secretary shall prescribe by regulations after consultation with the Board.

(f) The Secretary may also carry out the purposes of this section through contracts, and such contracts shall be subject to the same limitations as are provided in this section for grants.

#### FINANCIAL SUPPORT OF BIOMEDICAL SCIENTIFIC PUBLICATIONS

SEC. 397. (a) To carry out the purposes of section 390 (b) (6), the Secretary, with the advice of the Board, shall make grants to, and enter into appropriate contracts with, public or private nonprofit institutions of higher education and individual scientists for the purpose of supporting biomedical scientific publications of a non-profit nature and to procure the compilation, writing, editing, and publication of reviews, abstracts, indices, handbooks, bibliographies, and related matter pertaining to scientific works and scientific developments. 42 U.S.C.  
280b-9

(b) Grants under this section in support of any single periodical publication may not be made for more than three years, except in those cases in which the Secretary determines that further support is necessary to carry out the purposes of this section.

(c) Payment pursuant to grants made under this section may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulations after consultation with the Board.

#### CONTINUING AVAILABILITY OF APPROPRIATED FUNDS

SEC. 398. Funds appropriated to carry out any of the purposes of this part for any fiscal year shall remain available for such purposes for the fiscal year immediately following the fiscal year for which they were appropriated. 42 U.S.C.  
280b-10

#### RECORDS AND AUDIT

SEC. 399. (a) Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and 42 U.S.C.  
280b-11



the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to any grant received under the provisions of this part.

## PART K—QUALITY ASSURANCE

### QUALITY ASSURANCE

42 U.S.C.  
280b-13

SEC. 399A. (a) (1) The Secretary, through the Assistant Secretary for Health, shall conduct research and evaluation programs respecting the effectiveness, administration, and enforcement of quality assurance programs. Such research and evaluation programs shall be carried out in cooperation with the entity within the Department which administers the programs of assistance under section 304.

(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated \$4,000,000 for the fiscal year ending June 30, 1974, \$8,000,000 for the fiscal year ending June 30, 1975, \$9,000,000 for the fiscal year ending June 30, 1976, \$9,000,000 for the fiscal year ending June 30, 1977, and \$10,000,000 for the fiscal year ending June 30, 1978.

(b) The Secretary shall make an annual report to the Congress and the President on (1) the quality of health care in the United States, (2) the operation of quality assurance programs, and (3) advances made through research and evaluation of the effectiveness, administration, and enforcement of quality assurance programs. The first annual report under this subsection shall be made with respect to calendar year 1974 and shall be submitted not later than March 1, 1975. The Office of Management and Budget may review the Secretary's report under this subsection before its submission to the Congress, but the Office may not revise the report or delay its submission to the Congress, and it may submit to the Secretary and the Congress its comments (and those of other departments and agencies of the Government) with respect to such report.

## TITLE IV—NATIONAL RESEARCH INSTITUTES

### PART A—NATIONAL CANCER INSTITUTE

TO BE A DIVISION IN NATIONAL INSTITUTES OF HEALTH

SEC. 401. The National Cancer Institute shall be a division in the National Institutes of Health. 42 U.S.C. 281

#### CANCER RESEARCH, AND SO FORTH

SEC. 402. (a) In carrying out the purposes of section 301 with respect to cancer, the Surgeon General, through the National Cancer Institute and in cooperation with the National Cancer Advisory Board, shall— 42 U.S.C. 282

(1) conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

(2) promote the coordination of researches conducted by the Institute and similar researches conducted by other agencies, organizations, and individuals;

(3) provide clinical training and instruction in technical matters relating to the diagnosis and treatment of cancer;

(4) secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

(5) cooperate with State health agencies in the prevention, control, and eradication of cancer;

(6) procure, use, and lend radium as provided in section 403.

(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this Act for cancer research or training—

(1) if the direct costs of such research and training do not exceed \$35,000, but only after appropriate review for scientific merit but without the review and recommendation by the National Cancer Advisory Board prescribed by section 403(c), and

(2) if the direct costs of such research and training exceed \$35,000, but only after appropri-

ate review for scientific merit and recommendation for approval by such Board as prescribed by section 403(c).

#### ADMINISTRATION

42 U.S.C. 283

SEC. 403. (a) In carrying out the provisions of section 402 all appropriate provisions of section 301 shall be applicable to the authority of the Surgeon General, and he is authorized—

(1) to purchase radium, from time to time without regard to section 3709 of the Revised Statutes, to make such radium available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe;

(2) to provide the necessary facilities where training and instruction may be given in all technical matters relating to diagnosis and treatment of cancer to persons found by the Surgeon General to have proper technical qualifications, and designated by him for such training or instruction, and to fix and pay them a per diem allowance during such training or instruction of not to exceed \$10.

(b) The Surgeon General shall recommend acceptance of conditional gifts pursuant to section 501 of this Act, for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Board. Donations of \$50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) Except as provided in section 402(b), in carrying out the purposes of section 402 grants-in-aid for cancer projects shall be made only after review and recommendation of the National Cancer Advisory Board made pursuant to section 404.

#### FUNCTIONS OF BOARD

42 U.S.C. 284

SEC. 404. The National Cancer Advisory Board is authorized—

(a) to review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and certify approval to the Surgeon General, for prosecution under section 402, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;



(b) to collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(c) to review applications from any university, hospital, laboratory, or other institution whether public or private, or from individuals, for grants-in-aid for research projects relating to cancer, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of cancer;

(d) to recommend to the Surgeon General for acceptance conditional gifts pursuant to section 501 of this Act; and

(e) to make recommendations to the Surgeon General with respect to carrying out the provisions of this part.

#### APPROPRIATIONS

SEC. 405. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Surgeon General); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title. 42 U.S.C. 285

#### OTHER AUTHORITY

SEC. 406. This title shall not be construed as limiting (a) the functions or authority of the Surgeon General or the Public Health Service under any other title of this Act, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate 42 U.S.C. 286

institute is established under this Act; or (b) the expenditure of money therefor.

#### NATIONAL CANCER PROGRAM

42 U.S.C. 286a

SEC. 407. (a) The Director of the National Cancer Institute shall coordinate all of the activities of the National Institutes of Health relating to cancer with the National Cancer Program.

(b) In carrying out the National Cancer Program, the Director of the National Cancer Institute shall:

(1) With the advice of the National Cancer Advisory Board, plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the other research institutes, and other Federal and non-Federal programs.

(2) Expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise.

(3) Encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research.

(4) Collect, analyze, and disseminate information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer) useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

(5) Establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials.

(6) Support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States.

(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professions personnel, for

participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards.

(8) Call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

(9) (A) Prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needed for the National Cancer Program) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute.

(c)(1) There is established the President's Cancer Panel (hereinafter in this section referred to as the "Panel") which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

(2) (A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(B) The President shall designate one of the members to serve as Chairman for a term of one year.

(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

(3) The Panel shall meet at the call of the Chairman, but not less often than twelve times a year. A transcript shall be kept of the proceedings of each meeting of the



Panel, and the Chairman shall make such transcript available to the public.

(4) The Panel shall monitor the development and execution of the National Cancer Program under this section, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct. At the request of the President, it shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Cancer Institute.

#### NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

42 U.S.C. 286b

SEC. 408. (a) The Director of the National Cancer Institute is authorized to provide for the establishment of new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

(b) The Director of the National Cancer Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 405), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) clinical training (including clinical training for allied health professions personnel), and (4) demonstration purposes. The aggregate of payments (other than payments for construction) made to any center in support of such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed \$5,000,000 in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the costs of a center for which payments may be made under such an agreement, the aggregate of payments in such year for such center may exceed \$5,-

000,000 to include such increase and any such increase in any preceding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of \$5,000,000. As used in this section, the term "construction" does not include the acquisition of land, and the term "training" does not include research training for which fellowship support may be provided under section 472. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Cancer Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Cancer Institute.

#### CANCER CONTROL PROGRAMS

SEC. 409. (a) The Director of the National Cancer Institute shall establish programs as necessary for co-operation with State and other health agencies in the diagnosis, prevention, and treatment of cancer, including programs to provide appropriate trials of programs of routine exfoliative cytology tests conducted for the diagnosis of uterine cancer. 42 U.S.C. 286c

(b) There are authorized to be appropriated to carry out this section \$20,000,000 for the fiscal year ending June 30, 1972, \$30,000,000 for the fiscal year ending June 30, 1973, \$40,000,000 for the fiscal year ending June 30, 1974, \$53,500,000 for the fiscal year ending June 30, 1975, \$68,500,000 for the fiscal year ending June 30, 1976, \$88,500,000 for the fiscal year ending September 30, 1977, and \$84,560,000 for the fiscal year ending September 30, 1978.

#### AUTHORITY OF DIRECTOR

SEC. 410. (a) The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Board), in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this Act, is authorized— 42 U.S.C. 286d

(1) if authorized by the National Cancer Advisory Board, to obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and re-

lated accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Cancer Institute for a period not to exceed ten years;

(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

(5) to accept voluntary and uncompensated services;

(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution;

(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally; and

(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program.

(b) (1) The Director of the National Cancer Institute shall provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer.

(2) The Director of the National Cancer Institute shall include in the annual report required by section 410A(b) a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the National Cancer Program.



## SCIENTIFIC REVIEW; REPORTS

SEC. 410A. (a) The Director of the National Cancer Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required. 42 U.S.C. 286e

(b) The Director of the National Cancer Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the National Cancer Advisory Board and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the National Cancer Program during the preceding calendar year and a plan for the Program during the next five years.

## NATIONAL CANCER ADVISORY BOARD

SEC. 410B. (a) There is established in the National Cancer Institute a National Cancer Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-three members as follows: 42 U.S.C. 286f

(1) The Secretary, the Director of the Office of Science and Technology Policy, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

(2) Eighteen members appointed by the President. Not more than twelve of the appointed members of the Board shall be scientists or physicians and not more than eight of the appointed members shall be representatives from the general public. The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the National Cancer Institute.

(b)(1) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

(4) The Board shall supersede the existing National Advisory Cancer Council, and the appointed members of the Council serving on the effective date of this section shall serve as additional members of the Board for the duration of their terms then existing, or for such shorter time as the President may prescribe.

(c) The President shall designate one of the appointed members to serve as Chairman for a term of two years.

(d) The Board shall meet at the call of the Director of the National Cancer Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the National Cancer Institute with respect to the National Cancer Program.

(e) The Director of the National Cancer Institute shall designate a member of the staff of the Institute to act as Executive Secretary of the Board.

(f) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

(g) The Board shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the National Cancer Program toward the accomplishment of its objectives.

(h) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for person in the Government service employed intermittently.

(i) The Director of the National Cancer Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 410C. For the purpose of carrying out this part (other than section 409), there are authorized to be ap-

propriated \$400,000,000 for the fiscal year ending June 30, 1972; \$500,000,000 for the fiscal year ending June 30, 1973; \$600,000,000 for the fiscal year ending June 30, 1974; \$750,000,000 for the fiscal year ending June 30, 1975; \$830,000,000 for the fiscal year ending June 30, 1976; \$985,000,000 for the fiscal year ending September 30, 1977; and \$923,590,000 for the fiscal year ending September 30, 1978.

## PART B—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

### ESTABLISHMENT OF INSTITUTE

SEC. 411. There is hereby established in the Public Health Service a National Heart, Lung, and Blood Institute (hereafter in this part referred to as the "Institute"). 42 U.S.C. 287

### RESEARCH AND TRAINING IN DISEASES OF THE HEART, BLOOD VESSELS, LUNG, AND BLOOD AND IN THE MANAGEMENT OF BLOOD RESOURCES

SEC. 412. In carrying out the purposes of section 301 with respect to heart, blood vessel, lung, and blood diseases and with respect to the use of blood and blood products and the management of blood resources the Secretary through the Institute and in cooperation with the National Heart, Lung, and Blood Advisory Council (hereinafter in this part referred to as the "Council"), shall— 42 U.S.C. 287a

(1) conduct, assist, and foster researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources;

(2) promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals;

(3) make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of this part;

(4) make grants-in-aid to universities, hospitals, laboratories, and other public or private agencies and institutions, and to individuals for such research projects relating to heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equipment, and mainten-



ance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

(5) establish an information center on research, prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases and on the use of blood and blood products and the management of blood resources, and collect and make available, through publications and other appropriate means, information as to, and the practical application of, research and other activities carried on pursuant to this part;

(6) secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of heart, blood vessel, lung, and blood diseases and the management of blood resources;

(7) in accordance with regulations and from funds appropriated or donated for the purpose, provide clinical training and instruction and establish and maintain clinical traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions.

#### NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES AND BLOOD RESOURCES PROGRAM

42 U.S.C. 287b

SEC. 413. (a) The Director of the Institute, with the advice of the Council, shall develop a plan for a National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program (hereafter in this part referred to as the "Program") to expand, intensify, and coordinate the activities of the Institute respecting heart, blood vessel, lung, and blood diseases and blood resources (including its activities under section 412) and shall carry out the Program in accordance with such plan. The Program shall be coordinated with the other research institutes of the National Institutes of Health to the extent that they have responsibilities respecting such diseases and shall provide for—

(1) investigation into the epidemiology, etiology, and prevention of all forms and aspects of heart, blood vessel, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal heart, blood vessel, lung, and blood phenomena;

(3) research into the development, trial, and evaluation of techniques, drugs, and devices (including computers) used in, and approaches to, the diagnosis, treatment (including emergency medical service), and prevention of heart, blood vessel, lung, and blood diseases and the rehabilitation of patients suffering from such diseases;

(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering sciences to all facets of heart, blood vessel, lung, and blood diseases with emphasis on refinement, development, and evaluation of technological devices that will assist, replace, or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of those diseases;

(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to, and emergency medical services for, such diseases;

(6) studies and research into blood diseases and blood, and into the use of blood for clinical purposes and all aspects of the management of its resources in this country, including the collection, preservation, fractionalization, and distribution of it and its products;

(7) the education and training of scientists, clinicians, and educators, in fields and specialties (including computer sciences) requisite to the conduct of clinical programs respecting heart, blood vessel, lung, and blood diseases and blood resources;

(8) public and professional education relating to all aspects of such diseases and the use of blood and blood products and the management of blood resources;

(9) establishment of programs for study and research into heart, blood vessel, lung, and blood diseases of children (including cystic fibrosis, hyaline membrane, and hemolytic and hemophilic diseases) and for the development and demonstration of diag-

nostic, treatment, and preventive approaches to these diseases; and

(10) establishment of programs for study, research, development, demonstrations and evaluation of emergency medical services for people who become critically ill in connection with heart, blood vessel, lung, or blood diseases, which programs shall include programs for (A) the training of paraprofessionals in (i) emergency treatment procedures, and (ii) utilization and operation of emergency medical equipment, (B) the development and operation of (i) mobile critical care units (including helicopters and other airborne units where appropriate), (ii) radio, telecommunications, and other means of communications, and (iii) electronic monitoring systems, and (C) the coordination with other community services and agencies in the joint use of all forms of emergency vehicles, communications systems, and other appropriate services.

The Program shall give special emphasis to the continued development in the Institute of programs relating to atherosclerosis, hypertension, thrombosis, and congenital abnormalities of the blood vessels as causes of stroke, and to effective coordination of such programs with related stroke programs in the National Institute of Neurological Diseases and Stroke.

(b)(1) The plan required by subsection (a) of this section shall (A) be developed within one hundred and eighty days after the effective date of this section, (B) be transmitted to the Congress, and (C) set out the Institute's staff requirements to carry out the Program and recommendations for appropriations for the Program.

(2) The Director of the Institute shall, as soon as practicable after the end of each fiscal year, prepare in consultation with the Council and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the Program during the preceding fiscal year and a plan for the Program during the next five years. Each such plan shall contain (A) an estimate of the number and type of personnel which will be required by the Institute to carry out the Program during the five years with respect to which the plan is submitted, and (B) recommendations for appropriations to carry out the program during such five years.

(c) In carrying out the Program, the Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultations with the Council and without regard to any other provision of this Act, may—

(1) if authorized by the Council, obtain (in accordance with section 3109 of title 5, United States



Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred experts or consultants who have scientific or professional qualifications;

(2) acquire, construct, improve, repair, operate, alter, renovate, and maintain heart, blood vessel, lung, and blood disease and blood resource laboratory, research, training, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; and acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years; and

(3) enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution.

(d) There shall be in the Institute an Assistant Director for Prevention, Education, and Control who shall be appointed by the Director of the Institute. The Director of the Institute, acting through the Assistant Director for Prevention, Education, and Control shall conduct a program to provide the public and the health professions with health information with regard to cardiovascular and, blood and pulmonary diseases and blood resources. In the conduct of such program, special emphasis shall be placed upon dissemination of information regarding diet, exercise, stress, hypertension, cigarette smoking, weight control, and other factors affecting the prevention of arteriosclerosis and other cardiovascular diseases and of pulmonary and blood diseases.

#### HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASE PREVENTION AND CONTROL PROGRAMS

SEC. 414. (a) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, shall establish programs as necessary for cooperation with other Federal Health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treat-

42 U.S.C. 287c

ment (including the provision of emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of such diseases of children.

(b) There is authorized to be appropriated to carry out this section \$25,000,000 for the fiscal year ending June 30, 1973, \$35,000,000 for the fiscal year ending June 30, 1974, \$45,000,000 for the fiscal year ending June 30, 1975, \$10,000,000 for fiscal year 1976, \$30,000,000 for the fiscal year ending September 30, 1977, and \$30,000,000 for the fiscal year ending September 30, 1978.

NATIONAL RESEARCH AND DEMONSTRATION CENTERS FOR  
HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES AND  
BLOOD RESOURCES

42 U.S.C. 287d

SEC. 415. (a) (1) The Director of the Institute may provide for the development of—

(A) ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for heart and blood vessel diseases,

(B) ten new centers for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for lung diseases (including bronchitis, emphysema, asthma, cystic fibrosis, and other lung diseases of children), and

(C) ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood diseases and research into blood, in the use of blood products and in the management of blood resources.

(2) The centers developed under paragraph (1) shall, in addition to being utilized for research, training, and demonstrations, be utilized for the following prevention programs for cardiovascular, pulmonary, and blood diseases:

(A) Programs to develop improved methods of detecting individuals with a high risk of developing cardiovascular, pulmonary, and blood diseases.

(B) Programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing such diseases.

(C) Programs to develop health professions and allied health professions personnel highly skilled in the prevention of such diseases.

(D) Programs to develop improved methods of providing emergency medical services for persons with such diseases.

(3) Centers developed under this subsection may be supported under subsection (b) or under any other applicable provision of law. The research, training, and demonstration activities carried out through any such center may relate to any one or more of the diseases referred to in paragraph (1) of this subsection.

(b) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the Council, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for, existing or new centers (including centers established under subsection (a)) for basic or clinical research into, training in, and demonstration of, the management of blood resources and advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung, or blood diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

- (1) construction, notwithstanding section 405,
- (2) staffing and other basic operating costs, including such patient care costs as are required for research,
- (3) training, including training for allied health professions personnel, and
- (4) demonstration purposes.

The aggregate of payments (other than payments for construction) made to any center under such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed \$5,000,000 in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the costs of a center for which payments may be made under such an agreement, the aggregate of payments in such year for such center may exceed \$5,000,000 to include such increase and any such increase in any preceding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of \$5,000,000. Support of a center under this subsection may be for a period of not to exceed five years and may be extended by the Director of the Institute for additional periods of not more than five years each, after review of the operations of such center by an appropriate scientific review group established by the Director. As used in this section, the term "construction" does not include the acquisition of land; and the term "training" does not include research training for which fellowship support may be provided under section 472.



## INTERAGENCY TECHNICAL COMMITTEE

42 U.S.C. 287e

SEC. 416. (a) The Secretary shall establish an Interagency Technical Committee on Heart, Blood Vessel, Lung and Blood Diseases and Blood Resources which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to heart, blood vessel, lung, and blood diseases and to blood resources to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

(b) The Director of the Institute shall serve as Chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary.

## NATIONAL HEART, LUNG, AND BLOOD ADVISORY COUNCIL

42 U.S.C. 287f

SEC. 417. (a) There is established in the Institute a National Heart, Lung, and Blood Advisory Council to be composed of twenty-three members as follows:

(1) The Secretary, the Director of the National Institutes of Health, the Director of the Office of Science and Technology Policy, and the chief medical officer of the Veterans' Administration (or their designees), and a medical officer designated by the Secretary of Defense, shall be ex officio members of the Council.

(2) Eighteen members appointed by the Secretary.

Eleven of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to diseases of the heart, blood vessels, lungs, and blood; two of the appointed members shall be selected from persons enrolled in residency programs providing training in heart, blood vessel, lung, or blood diseases; and five of the appointed members shall be selected from members of the general public who are leaders in the fields of fundamental or medical sciences or in public affairs.

(b) (1) Each appointed member of the Council shall be appointed for a term of four years, except that—

(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a

term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

(3) The Council shall supersede the existing National Advisory Heart Council appointed under section 217, and the appointed members of the National Advisory Heart Council serving on the effective date of this section shall serve as additional members of the National Heart, Lung, and Blood Advisory Council for the duration of their terms then existing, or for such shorter time as the Secretary may prescribe.

(4) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(c) The Secretary (or his designee) shall be the Chairman of the Council.

(d) The Director of the Institute shall (1) designate a member of the staff of the Institute to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

(e) The Council shall meet at the call of the Chairman, but not less often than four times a year.

#### FUNCTIONS OF THE COUNCIL

SEC. 418. (a) The Council is authorized to—

42 U.S.C. 287g

(1) review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources, and certify approval to the Secretary, for prosecution under section 412, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases and to the use of

blood products and the management of blood resources;

(2) review applications from any university, hospital, laboratory, or other institution or agency, whether public or private, or from individuals, for grants-in-aid for research projects relating to heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources, and certify to the Secretary its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood disease;

(3) review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources, and certify to the Secretary its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this act;

(4) recommend to the Secretary (A) areas of research in heart, blood vessels, lung, and blood diseases and in the use of blood and blood products and the management of blood resources which it determines should be supported by the awarding of contracts in order to best carry out the purposes of this part, and (B) the percentage of the budget of the Institute which should be expended for such contracts;

(5) collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases and to the use of blood and blood products and the management of blood resources, by correspondence or by personal investigation of such studies, and with the approval of the Secretary make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(6) recommend to the Secretary for acceptance conditional gifts pursuant to section 501 for carrying out the purposes of this part; and

(7) advise, consult with, and make recommendations to the Secretary, the Director of the National Institutes of Health, and the Director of the National



Heart, Lung, and Blood Institute with respect to carrying out the provisions of this part.

(b) (1) The Council shall advise and assist the Director of the Institute with respect to the Program established under section 413. The Council may hold such hearings, take such testimony, and sit and act at such times and places, as the Council deems advisable to investigate programs and activities of the Program.

(2) The Council shall submit a report to the Secretary for simultaneous transmittal, not later than November 30 of each year, to the President and to the Congress on the progress of the Program toward the accomplishment of its objectives during the preceding fiscal year.

#### ADMINISTRATION

SEC. 419A. (a) In carrying out the provisions of section 412 all appropriate provisions of section 301 shall be applicable to the authority of the Secretary, and except as provided in subsection (c), grants-in-aid for heart, blood vessel, lung, and blood disease research and training projects and projects with respect to the use of blood and blood products and the management of blood resources shall be made only after review and recommendation of the Council.

42 U.S.C. 287h

(b) The Secretary may, in accordance with section 501, accept conditional gifts for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of heart, blood vessel, lung, and blood diseases and into the use of blood and blood products and the management of blood resources, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of \$50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

(c) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Heart, Lung, and Blood Institute may approve grants under this Act for research and training in heart, blood vessel, lung, and blood diseases and for research and training in the use of blood and blood products and the management of blood resources—

(1) if the direct costs of such research and training do not exceed \$35,000, but only after appropriate review for scientific merit but without review and recommendation by the Council, and

(2) if the direct costs of such research and training exceed \$35,000, but only after appropriate review for scientific merit and recommendation for approval by the Council.

## AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 2871

SEC. 419B. For the purpose of carrying out this part (other than section 414), there is authorized to be appropriated \$375,000,000 for the fiscal year ending June 30, 1973, \$425,000,000 for the fiscal year ending June 30, 1974, \$475,000,000 for the fiscal year ending June 30, 1975, \$339,000,000 for fiscal year 1976, \$373,000,000 for the fiscal year ending September 30, 1977, and \$426,320,000 for the fiscal year ending September 30, 1978. Of the sums appropriated under this section for any fiscal year, not less than 15 per centum of such sums shall be reserved for programs under this part respecting diseases of the lung and not less than 15 per centum of such sums shall be reserved for programs under this part for programs respecting blood diseases and blood resources.

## PART C—NATIONAL INSTITUTE OF DENTAL RESEARCH

## ESTABLISHMENT OF INSTITUTE

42 U.S.C. 288

SEC. 421. There is hereby established in the Public Health Service a National Institute of Dental Research (hereafter in this part referred to as the "Institute").

## DENTAL DISEASE RESEARCH AND TRAINING

42 U.S.C. 288a

SEC. 422. In carrying out the purposes of section 301 with respect to dental diseases and conditions the Surgeon General, through the Institute and in cooperation with the National Advisory Dental Research Council (hereafter in this part referred to as the "Council"), shall—

(a) conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions;

(b) promote the coordination of researches conducted by the Institute, and similar researches conducted by other agencies, organizations, and individuals;

(c) secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the field of dental diseases and conditions;

(d) cooperate with State health agencies in the prevention and control of dental diseases and conditions; and

(e) provide clinical training and instruction and establish and maintain clinical traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions with such stipends and allow-

ances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendations of the Council, to public and other nonprofit institutions.

#### ADMINISTRATION

SEC. 423. (a) In carrying out the provisions of section 422 all appropriate provisions of section 301 shall be applicable to the authority of the Surgeon General, and grants-in-aid for dental research and training projects shall be made only after review and recommendation of the Council made pursuant to section 424. 42 U.S.C. 288b

(b) The Surgeon General shall recommend to the Secretary acceptance of conditional gifts, pursuant to section 501, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of \$50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

#### FUNCTIONS OF THE COUNCIL

SEC. 424. The Council is authorized to—

42 U.S.C. 288c

(a) review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions, and certify approval to the Surgeon General, for prosecution under section 422(a) hereof, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions;

(b) collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the information of the general public;



(c) review applications from any university, hospital, laboratory, or other institution, whether public or private, or from individuals, for grants-in-aid for research projects relating to dental diseases and conditions, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions;

(d) recommend to the Surgeon General for acceptance conditional gifts pursuant to section 501 for carrying out the purposes of this part;

(e) make recommendations to the Surgeon General with respect to carrying out the provisions of this part; and

(f) review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this Act.

#### PART D—NATIONAL INSTITUTE ON ARTHRITIS, RHEUMATISM, AND METABOLIC DISEASES, NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE, AND OTHER INSTITUTES

##### ESTABLISHMENT OF INSTITUTES

42 U.S.C. 289a

SEC. 431. (a) The Surgeon General shall establish in the Public Health Service an institute for research on arthritis, rheumatism, and metabolic diseases,<sup>1</sup> and an institute for research on neurological diseases (including epilepsy, cerebral palsy, and multiple sclerosis) and blindness, and he shall also establish a national advisory council or committee for each such institute to advise, consult with, and make recommendations to him with respect to the activities of the institute with which each council or committee is concerned.

(b) The Surgeon General is authorized with the approval of the Secretary to establish in the Public Health Service one or more additional institutes to conduct and support scientific research and professional training relating to the cause, prevention, and methods of diagnosis and treatment of other particular diseases or groups of diseases (including poliomyelitis and leprosy) whenever the Surgeon General determines that such action is necessary to effectuate fully the purposes of section 301 with

<sup>1</sup> See section 434 which designates this research institute as the National Institute of Arthritis, Metabolism, and Digestive Diseases.

respect to such disease or diseases. Any institute established pursuant to this subsection may in like manner be abolished and its functions transferred elsewhere in the Public Health Service upon a finding by the Surgeon General that a separate institute is no longer required for such purposes. In lieu of the establishment pursuant to this subsection of an additional institute with respect to any disease or diseases, the Surgeon General may expand the functions of any institute established under subsection (a) of this section or under any other provision of this Act so as to include functions with respect to such disease or diseases and to terminate such expansion and transfer the functions given such institute elsewhere in the Service upon a finding by the Surgeon General that such expansion is no longer necessary. In the case of any such expansion of an existing institute, the Surgeon General may change the title thereof so as to reflect its new functions.

(c) Of the sums appropriated for any fiscal year under this Act for the National Institutes of Health, not less than \$500,000 shall be obligated for basic and clinical orthopedic research conducted within the National Institute of Arthritis, Metabolism, and Digestive Diseases which relates to the methods of preventing, controlling and treating arthritis and related musculoskeletal diseases (hereinafter in this part collectively referred to as "arthritis"), including research in implantable biomaterials and biomechanical and other orthopedic procedures and research in the development of new and improved orthopedic treatment methods.

#### ESTABLISHMENT OF NATIONAL ADVISORY COUNCILS

SEC. 432. (a) The Surgeon General is also authorized with the approval of the Secretary to establish additional national advisory councils or committees to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of any institute established under subsection (b) of section 431, or relating to the conduct and support of research and training in such disease or group of diseases (except a disease or group of diseases for which an institute is established under any provision of this title other than section 431(b)) as he may designate. Any such council, and each of the two councils or committees established under section 413(a), shall consist of the Surgeon General, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members, and of twelve members appointed without regard to the civil service laws by the Surgeon General with the approval of the Secretary.

42 U.S.C. 289b

The twelve appointed members shall be leaders in the field of fundamental sciences, medical sciences, education, or public affairs, and six of such twelve shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of the disease or diseases to which the activities of the institute are directed. Each appointed member of the council shall hold office for a term of four years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Surgeon General at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term.

(b) In lieu of appointment of an additional advisory council or committee upon the establishment pursuant to subsection (b) of section 431 of an additional institute or upon expansion pursuant to such subsection of the functions of an institute, the Surgeon General may expand the functions of an advisory council or committee established under section 431 (a) of any other provisions of this Act so as to include functions with respect to the particular disease or diseases to which the activities of the additional institute or the expanded activities of the existing institute are directed. In the case of any such expansion of an existing council or committee, the membership thereof representing persons outstanding in activities with which the council or committee is concerned may be changed or increased so as to include some persons outstanding in the new activities. Any new council or committee established under subsection (a) of this section or any expansion of an existing council or committee under this subsection may be terminated by the Surgeon General at, before, or after the termination of the new institute or expansion of the existing institute which occasioned such new council or committee or expansion of an existing council or committee. In the case of any such expansion of an existing council or committee, the Surgeon General may change the title thereof so as to reflect its new functions.

#### FUNCTIONS

42 U.S.C. 289c

SEC. 433. (a) Where an institute has been established under this part, the Surgeon General shall carry out the purposes of section 301 with respect to the conduct and support of research relating to the disease or diseases to



which the activities of the institute are directed, through such institute and in cooperation with the national advisory council or committee established or expanded by reason of the establishment of such institute. The provisions of this subsection shall also be applicable to any institute established by any other provision of this Act to the extent that such institute does not already have the authority conferred by this subsection.

(b) Upon the appointment of a national advisory council or committee for an institute established under this part or the expansion of an existing institute pursuant to this part, such council or committee shall assume the duties, functions, and powers of the National Advisory Health Council with respect to grants-in-aid for research and training projects relating to the disease or diseases to which the activities of the institute are directed.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM,  
AND DIGESTIVE DISEASES

SEC. 434. (a) The Research Institute on Arthritis, Rheumatism, and Metabolic Diseases established under section 431(a) is designated the "National Institute of Arthritis, Metabolism, and Digestive Diseases", and the Advisory Council established under section 432 to advise the Secretary with respect to the activities of the Institute is designated the "National Arthritis, Metabolism, and Digestive Diseases Advisory Council". There shall be in the Institute an Associate Director for Digestive Diseases. 42 U.S.C. 289c-1

(b) There is established in the National Arthritis, Metabolism, and Digestive Diseases Advisory Council a committee to advise the Director of the Institute respecting the activities of the Institute concerning digestive diseases. The committee shall be composed of those members of the Advisory Council who are outstanding in the diagnosis, prevention, and treatment of digestive diseases. The committee shall review applications made to the Director for grants for research projects relating to the diagnosis, prevention, and treatment of digestive diseases and shall recommend to the Director for approval those applications and contracts which the committee determines will best carry out the purposes of this part. The Advisory Council shall review applications made to the Director for grants for research projects related to arthritis and shall recommend to the Director for approval those applications and contracts which the Council determines will best carry out the purposes of this part. The Advisory Council shall also review and evaluate the arthritis programs under this part and shall recommend to the Director such changes in the administration of such programs as it determines are necessary.

(c) The Director of the Institute, acting through the Associate Director for Digestive Diseases, shall (1) carry out, at the facilities of the Institute, a program of research in the diagnosis, prevention, and treatment of digestive diseases; and (2) carry out programs of support for research and training (other than research training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of digestive diseases, including support for training in medical schools, graduate clinical training, epidemiology studies, clinical trials, and interdisciplinary research programs.

(d) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, working through the Associate Director for Diabetes (if that position is established), shall (1) carry out programs of support for research and training in the diagnosis, prevention, and treatment of diabetes mellitus and related endocrine and metabolic diseases, and (2) establish programs of evaluation, planning, and dissemination of knowledge related to research and training in diabetes mellitus and related endocrine and metabolic diseases.

(e) There is established within the Institute the position of Associate Director for Arthritis and Related Musculoskeletal Disease (hereinafter in this part referred to as the "Associate Director"), who shall report directly to the Director of such Institute and who, under the supervision of the Director of such Institute, shall be responsible for programs regarding arthritis within such Institute.

(f) The Director of the Institute shall, as soon as practicable, but not later than sixty days, after the end of each fiscal year, prepare, in consultation with the National Advisory Council, and submit to the President and to the Congress a report. Such report shall include (1) a proposal for the Institute's activities under the Arthritis Plan formulated under the National Arthritis Act of 1974 and activities under other provisions of law during the next five years, with an estimate for such additional staff positions and appropriations as may be required to pursue such activities, and (2) a program evaluation section, wherein the activities and accomplishments of the Institute during the preceding fiscal year shall be measured against the Director's proposal for that year for activities under the Arthritis Plan.

#### DIABETES RESEARCH AND TRAINING CENTERS

SEC. 435. (a) Consistent with applicable recommendations of the National Commission on Diabetes, the Secretary shall provide for the development, or substantial expansion, of centers for research and training in dia-

betes mellitus and related endocrine and metabolic disorders. Each center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Secretary; and (2) conduct (A) research in the diagnosis and treatment of diabetes mellitus and related endocrine and metabolic disorders and the complications resulting from such disease or disorders, (B) training programs for physicians and allied health personnel in current methods of diagnosis and treatment of such disease, disorders, and complications, and (C) information programs for physicians and allied health personnel who provide primary care for patients with such disease, disorders, or complications. Insofar as practicable, centers developed or expanded under this section shall be located geographically on the basis of population density throughout the United States and in environments with proven research capabilities.

(b) The Secretary shall evaluate on an annual basis the activities of centers developed or expanded under this section and shall report to the Congress (on or before September 30 of each year) the results of his evaluation.

(c) There are authorized to be appropriated to carry out this section \$8,000,000 for fiscal year ending June 30, 1975, \$12,000,000 for fiscal year ending June 30, 1976, \$20,000,000 for fiscal year ending June 30, 1977, \$12,000,000 for the fiscal year ending September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1979, and \$20,000,000 for the fiscal year ending September 30, 1980.

#### DIABETES COORDINATING COMMITTEE

SEC. 436. For the purpose of—

(1) better coordination of the total National Institutes of Health research activities relating to diabetes mellitus; and

42 U.S.C. 289c-3

(2) coordinating those aspects of all Federal health programs and activities relating to diabetes mellitus to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Director of the National Institutes of Health shall establish a Diabetes Mellitus Coordinating Committee. The Committee shall be composed of the Directors (or their designated representatives) of each of the Institutes and divisions involved in diabetes-related research and shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary.



The Committee shall be chaired by the Director of the National Institutes of Health (or his designated representative). The Committee shall prepare a report as soon after the end of each fiscal year as possible for the Director of the National Institutes of Health detailing the work of the Committee in carrying out the coordinating activities described in paragraphs (1) and (2).

#### NATIONAL DIABETES ADVISORY BOARD

42 U.S.C.  
289c-3a

SEC. 436A. (a) The Secretary shall establish a National Diabetes Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-three members as follows:

(1) The following ex officio members: The Assistant Secretary for Health or his designee, the Director of the National Institutes of Health or his designee, the Director of the National Institute of Arthritis, Metabolism, and Digestive Disease or his designee, the Director of the National Heart, Lung, and Blood Institute or his designee, the Director of the National Eye Institute or his designee, the Director of the Center for Disease Control or his designee, the Administrator of the Health Services Administration or his designee, the Administrator of the Health Resources Administration or his designee, the Associate Director for Diabetes of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Chief Medical Director of the Veterans' Administration or his designee, and the Secretary of Defense or his designee.

(2) Seven members shall be appointed by the Secretary from individuals who are not in the employ of the Federal Government and who are health and allied health professionals or scientists representing the various specialties and disciplines involved with diabetes mellitus and related endocrine and metabolic diseases.

(3) Five members shall be appointed by the Secretary from the general public, including at least one person with diabetes and two persons each of whom is a parent of a diabetic child.

(b) The members of the Board shall select a Chairperson from among the appointed members.

(c) The Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrange-

ments) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Board to carry out its functions.

(d) Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(e) The appointed members of the Board shall be appointed to serve until the expiration of the Board (as provided in subsection (1)).

(f) The Board shall—

(1) review and evaluate the implementation of the long range plan to combat diabetes mellitus (hereinafter in this section referred to as the "Diabetes Plan") formulated by the National Commission on Diabetes under section 3(e) of the National Diabetes Mellitus Research and Education Act, and

(2) for the purpose of assuring the most effective utilization and organization of diabetes resources, advise and make recommendations to Congress, the Secretary, and the heads of other appropriate Federal agencies with respect to the Diabetes Plan and with respect to the guidelines, policies and procedures of Federal programs relating to diabetes.

(g) The Board may collect such data as it deems advisable and necessary to enable it to perform the functions required by subsection (f).

(h) The Board may, from time to time, establish Subcommittees. Such Subcommittees may be composed of Board members and nonmember consultants with expertise in the particular area addressed by such Subcommittees.

(i) The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its Subcommittees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

(j) One year after the date of its establishment and each year thereafter the Board shall submit to the Secretary and to the Congress a report—

(1) which describes the Board's activities during the year for which the report is made;

(2) which describes and evaluates the progress made in such year in diabetes research, treatment, education, and training;

(3) which summarizes and analyzes expenditures made by the Federal Government for diabetes-related activities during the year for which the report is made; and

(4) which contains the Board's recommendations (if any) for changes in the Diabetes Plan.

The annual diabetes report shall be made available to the public at the same time it is transmitted to Congress and the Secretary.

(k) There are authorized to be appropriated to carry out the purposes of this section \$300,000 for the fiscal year ending September 30, 1978, \$300,000 for the fiscal year ending September 30, 1979, and \$300,000 for the fiscal year ending September 30, 1980.

(l) The Board shall expire on September 30, 1980.

#### ARTHRITIS COORDINATING COMMITTEE

42 U.S.C.  
289c-4

SEC. 437. (a) In order to improve coordination of all activities in the National Institutes of Health, in the Department of Health, Education, and Welfare, and in other departments and agencies of the Federal Government relating to Federal health programs and activities relating to arthritis, the Secretary shall establish an Arthritis Coordinating Committee to be composed of representatives of the Department of Health, Education, and Welfare (including the Food and Drug Administration) and of the Veterans' Administration, the Department of Defense, and other Federal departments and agencies involved in research, health services, or rehabilitation programs affecting arthritis. This committee shall include the Directors (or their designated representatives) of each of the Institutes of the National Institutes of Health involved in arthritis related research. The Committee shall be chaired by the Associate Director established pursuant to section 434(e) and shall prepare a report not later than sixty days after the end of each fiscal year as possible, for the Secretary detailing the work of the committee in seeking to improve coordination of departmental and interdepartmental activities relating to arthritis during the preceding fiscal year. Such report shall include—

(1) a description of the work of the committee in coordinating the research activities of the National Institutes of Health relating to arthritis during the preceding year, and

(2) a description of the work of the committee in promoting the coordination of Federal health pro-



grams and activities relating to arthritis to assure the adequacy of such programs and to provide for the adequate coordination of such programs and activities.

(b) The Committee shall meet at the call of the chairman, but not less often than four times a year.

#### ARTHRITIS DEMONSTRATION PROJECTS AND DATA SYSTEM

SEC. 438. (a) The Secretary, acting through the Assistant Secretary for Health, may make grants to public and nonprofit entities to establish and support projects for the development and demonstration of methods for arthritis, screening, detection, and referral, and for dissemination of these methods to the health and allied health professions. Activities under such projects shall be coordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 439, and (3) the data system established under subsection (c).

42 U.S.C.  
289c-5

(b) Projects under this section shall include programs which—

(1) emphasize the development and demonstration of new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis;

(2) emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

(3) emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

(4) emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals; and

(5) emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

(A) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis.

(c) (1) As soon as practicable after the date of enactment of this section the Secretary, through the Assistant

Secretary for Health, shall establish the Arthritis Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with asymptomatic and symptomatic types of arthritis, including where possible, data involving general populations for the purpose of detection of individuals with a risk of developing arthritis.

(2) The Secretary shall provide for standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 439, and other persons engaged in arthritis programs.

(d) (1) There are authorized to be appropriated to carry out this section \$2,000,000 for fiscal year ending June 30, 1975, \$3,000,000 for fiscal year ending June 30, 1976, and \$4,000,000 for fiscal year ending June 30, 1977.

(2) There are authorized to be appropriated to carry out subsections (a) and (b) \$3,000,000 for the fiscal year ending September 30, 1978, \$4,000,000 for the fiscal year ending September 30, 1979, and \$5,000,000 for the fiscal year ending September 30, 1980.

(3) There are authorized to be appropriated to carry out subsection (c) \$1,000,000 for the fiscal year ending September 30, 1978, \$1,250,000 for the fiscal year ending September 30, 1979, and \$1,500,000 for the fiscal year ending September 30, 1980.

#### MULTIPURPOSE ARTHRITIS CENTERS

42 U.S.C. 289c-6

SEC. 439. (a) The Secretary, acting through the Assistant Secretary for Health may, after consultation with the National Advisory Council established under section 434(a) and consistent with the Arthritis Plan developed pursuant to the National Arthritis Act of 1974, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis research, screening, detection, diagnosis, prevention, control, and treatment, for education related to arthritis, and for rehabilitation of individuals who suffer from arthritis. For purposes of this section, the term "modernization" means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

(b) Each center assisted under this section shall—

(1) (A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

## (2) conduct—

(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of, arthritis and complications resulting from arthritis, including research into implantable biomaterials and biomechanical and other orthopedic procedures and in the development of other diagnostic and treatment methods;

(B) training programs for physicians and other health and allied professionals in current methods of diagnosis, screening and early detection, prevention, control, and treatment of arthritis, and in research in arthritis;

(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis; and

(D) programs for the dissemination to the general public of information—

(i) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

(c) Each center assisted under this section may conduct programs to—

(1) develop new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of developing arthritis, asymptomatic arthritis, or symptomatic arthritis,

(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

(d) The Secretary shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Secretary shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

(e) The Secretary shall evaluate on an annual basis the activities of centers receiving support under this section and shall report to the appropriate committees of Congress the results of his evaluations not later than four months after the end of each fiscal year.

(f) Support of a center under this section may be for a period of not to exceed three years and may be extended



by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases.

(g) For purposes of this section, there are authorized to be appropriated \$11,000,000 for the fiscal year ending June 30, 1975, \$8,000,000 for the fiscal year ending June 30, 1976, \$20,000,000 for the fiscal year ending June 30, 1977, \$18,700,000 for the fiscal year ending September 30, 1978, \$19,000,000 for the fiscal year ending September 30, 1979, and \$20,000,000 for the fiscal year ending September 30, 1980. Not less than 20 per centum of the funds appropriated for each fiscal year under this subsection shall be used for the purpose of establishing new centers.

#### NATIONAL ARTHRITIS ADVISORY BOARD

42 U.S.C. 289c-7

SEC. 440. (a) The Secretary shall establish a National Arthritis Advisory Board (hereinafter in this section referred to as the "Board") to be composed of twenty-four members as follows:

(1) Eight members shall be appointed by the Secretary from individuals who are scientists, physicians, or other health professionals, who are not employed by the Federal Government, and who represent the various specialties and disciplines involved in arthritis. Of the members appointed pursuant to this paragraph, three shall be clinical rheumatologists, two shall be orthopedic surgeons, two shall be rheumatology investigators, and one shall be an allied health professional.

(2) Six members shall be appointed by the Secretary from individuals, who are not employed by the Federal Government, with an interest in arthritis and who as a group have knowledge and experience in the fields of medical education, nursing, community program development, health education, data systems, and public information.

(3) One member shall be appointed by the Secretary from individuals who are members of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and who are expert in the field of arthritis.

(4) Four members shall be appointed by the Secretary from the general public. At least two of such members shall be persons who have arthritis and one shall be the parent of a child who has arthritis.

(5) The Assistant Secretary of Health or his designee, the Director of the National Institutes of

Health or his designee, the Associate Director for Arthritis of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Chief Medical Director of the Veterans' Administration or his designee, and the Secretary of Defense or his designee shall each be ex officio members.

(b) The members of the Board shall select a Chairperson from among the appointed members.

(c) The Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrangements) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Board to carry out its functions.

(d) Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(e) The appointed members of the Board shall be appointed to serve until the expiration of the Board (as provided in subsection (1)).

(f) The Board shall—

(1) review and evaluate the implementation of the Arthritis Plan (formulated under section 3(g) of the National Arthritis Act of 1974); and

(2) for the purpose of assuring the most effective utilization and organization of arthritis resources, advise and make recommendations to Congress, the Secretary, and the heads of other appropriate Federal agencies with respect to the Arthritis Plan and with respect to the guidelines, policies and procedures of Federal programs relating to arthritis.

(g) The Board may collect such data as it deems advisable and necessary to enable it to perform the functions required by subsection (f).

(h) The Board may, from time to time, establish Subcommittees. Such Subcommittees may be composed of Board members and nonmember consultants with expertise in the particular area addressed by such Subcommittees.

(i) The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its Subcommittees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

(j) One year after the date of its establishment and each year thereafter the Board shall submit to the Secretary and to the Congress a report—

(1) which describes the Board's activities during the year for which the report is made;

(2) which describes and evaluates the progress made in such year in arthritis research, treatment, education, and training;

(3) which summarizes and analyzes expenditures made by the Federal Government for arthritis-related activities during the year for which the report is made; and

(4) which contains the Board's recommendations (if any) for changes in the Arthritis Plan.

The annual arthritis report shall be made available to the public at the same time it is transmitted to Congress and the Secretary.

(k) There are authorized to be appropriated to carry out the purposes of this section \$300,000 for the fiscal year ending September 30, 1978, \$300,000 for the fiscal year ending September 30, 1979, and \$300,000 for the fiscal year ending September 30, 1980.

(l) The Board shall expire on September 30, 1980.

#### COORDINATING COMMITTEE FOR DIGESTIVE DISEASES

42 U.S.C. 289c-8

SEC. 440A. (a) The Secretary shall establish a Coordinating Committee for Digestive Diseases (hereafter in this section referred to as the "Committee") to be composed of the Directors (or their designated representatives) of each of the Institutes of the National Institutes of Health involved in digestive disease research; and the head (or his designated representative) of the Alcohol, Drug Abuse and Mental Health Administration, the National Institute of Occupational Safety and Health, the Food and Drug Administration, the Department of Medicine and Surgery of the Veterans' Administration, the Center for Disease Control, the Department of Defense, the Department of Agriculture, the Health Services Administration, the Health Resources Administration, the Social Security Administration, and the Institute of Medicine of the National Academy of Sciences. The Committee shall be chaired by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases



and the Associate Director for Digestive Diseases and Nutrition of that Institute shall serve as vice chairman. The Committee shall meet at the call of the Chairman, but not less often than three times a year.

(b) The Committee shall be responsible for the coordination of the activities of the entities represented on the Committee respecting digestive diseases. The Committee shall submit to the Secretary an annual report detailing the manner in which the Committee has coordinated such activities.

## PART E—INSTITUTES OF CHILD HEALTH AND HUMAN DEVELOPMENT AND OF GENERAL MEDICAL SCIENCES

### ESTABLISHMENT OF INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

42 U.S.C. 289d

SEC. 441. (a) The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service the National Institute of Child Health and Human Development for the conduct and support of research and training relating to maternal health, child health, and human development, including research and training in the special health problems and requirements of mothers and children and in the basic sciences relating to the process of human growth and development, including prenatal development.

(b) The Secretary shall carry out through the National Institute of Child Health and Human Development the purposes of section 301 with respect to the conduct and support of research which specifically relates to sudden infant death syndrome.

### ESTABLISHMENT OF INSTITUTE OF GENERAL MEDICAL SCIENCES

42 U.S.C. 289e

SEC. 442. The Surgeon General is authorized, with the approval of the Secretary, to establish in the Public Health Service an institute for the conduct and support of research and training in the general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other institutes, or are outside the general area of responsibility of any other institute, established under or by this Act.

### ESTABLISHMENT OF ADVISORY COUNCILS

42 U.S.C. 289f

SEC. 443. (a) The Surgeon General is authorized, with the approval of the Secretary, to establish an advisory council or committee to advise, consult with, and make recommendations to the Surgeon General on matters relating to the activities of the institute established under section 441. He may also, with such approval, establish such a council or committee with respect to the activities of the institute established under section 442.

(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils or committees under section 432(a) shall be applicable to any council or committee established under this section, except that, in lieu of the requirement in such section that six of the members be outstanding in the study, diagnosis, or treatment of a disease or diseases, six of such members shall be selected from leading medical or scientific authorities who are outstanding in the field of research or training with respect to which the council or committee is being established, and except that the Surgeon General, with the approval of the Secretary, may include on any such council or committee established under this section such additional ex officio members as he deems necessary in the light of the functions of the institute with respect to which it is established.

(c) Upon appointment of any such council or committee, it shall assume all or such part as the Surgeon General may, with the approval of the Secretary, specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council or committee established under this part is concerned and such portion as the Surgeon General may specify (with such approval) of the duties, functions, and powers of any other advisory council or committee established under this Act relating to such projects.

#### FUNCTIONS

42 U.S.C. 289g

SEC. 444. The Secretary shall, through an institute established under this part, carry out the purposes of section 301 with respect to the conduct and support of research which is a function of such institute, except that the Secretary shall, in accordance with section 441(b) determine the areas in which and the extent to which he will carry out such purposes of section 301 through such institute or an institute established by or under other provisions of this Act, or both of them, when both institutes have functions with respect to the same subject matter.

#### PRESERVATION OF EXISTING AUTHORITY

42 U.S.C. 289h

SEC. 445. Nothing in this part shall be construed as affecting the authority of the Secretary under section 2 of the Act of April 9, 1912 (42 U.S.C. 192), or title V of the Social Security Act (42 U.S.C., ch. 7, subch. V), or as affecting the authority of the Surgeon General to utilize institutes established under other provisions of this Act for research or training activities relating to maternal health, child health, and human development or to the general medical sciences and related sciences.

## PART F—NATIONAL EYE INSTITUTE

## ESTABLISHMENT OF NATIONAL EYE INSTITUTE

SEC. 451. The Secretary is authorized to establish in the Public Health Service an institute for the conduct and support of research for new treatment and cures and training relating to blinding eye diseases and visual disorders, including research and training in the special health problems and requirements of the blind and in the basic and clinical sciences relating to the mechanism of the visual function and preservation of sight. The Secretary is also authorized to plan for research and training, especially against the main causes of blindness and loss of visual function. 42 U.S.C. 2891

## ESTABLISHMENT OF ADVISORY COUNCIL

SEC. 452. (a) The Secretary is authorized to establish an advisory council or committee to advise, consult with, and make recommendations to him on matters relating to the activities of the National Eye Institute. 42 U.S.C. 289J

(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 432(a) shall be applicable to the council or committee established under this section, except that the Secretary may include on such council or committee established under this section such additional ex officio members as he deems necessary.

(c) Upon appointment of such council or committee, it shall assume all or such part as the Secretary may specify of the duties, functions, and powers of the National Advisory Health Council relating to the research or training projects with which such council or committee established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council or committee established under this Act relating to such projects.

## FUNCTIONS

SEC. 453. The Secretary shall, through the National Eye Institute established under this part, carry out the purposes of section 301 with respect to the conduct and support of research with respect to blinding eye diseases and visual disorders associated with general health and well-being, including the special health problems and requirements of the blind and the mechanism of sight and visual function, except that the Secretary shall determine the areas in which and the extent to which he will carry 42 U.S.C. 289k



out such purposes of section 301 through such Institute or an institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter.

## PART G—NATIONAL INSTITUTE OF MENTAL HEALTH

### ESTABLISHMENT OF INSTITUTE

42 U.S.C.  
289k-1

SEC. 455. (a) There is established the National Institute of Mental Health (hereinafter in this part referred to as the "Institute") to administer the programs and authorities of the Secretary with respect to mental health. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 301 and 303 of this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II) with respect to mental illness, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of mental illness and for the rehabilitation of the mentally ill. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

(b) (1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute.

(c) The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

## PART H—NATIONAL INSTITUTE ON AGING

### ESTABLISHMENT OF NATIONAL INSTITUTE ON AGING

42 U.S.C.  
289k-2

SEC. 461. The Secretary shall establish in the Service an institute to be known as the National Institute on Aging (hereinafter in this part referred to as the "Institute") for the conduct and support of biomedical, social, and behavioral research and training related to the aging process and the diseases and other special problems and needs of the aged.

### NATIONAL ADVISORY COUNCIL ON AGING

42 U.S.C.  
289k-3

SEC. 462. (a) The Secretary shall establish a National Advisory Council on Aging to advise, consult with, and

make recommendations to him on programs relating to the aged which are administered by him and on those matters which relate to the Institute.

(b) The provisions relating to the composition, terms of office of members, and reappointment of members of advisory councils under section 432(a) shall be applicable to the Advisory Council established under this section, except that (1) the Secretary may include on such Advisory Council such additional ex officio members as he deems necessary, and (2) the Secretary shall appoint to the Council leading medical or scientific authorities skilled in aspects of the biological and the behavioral sciences relating to aging.

(c) Upon appointment of such Advisory Council, it shall assume all, or such part as the Secretary may specify, of the duties, functions, and powers of the National Advisory Health Council relating to programs for the aged with which the Advisory Council established under this part is concerned and such portion as the Secretary may specify of the duties, functions, and powers of any other advisory council established under this Act relating to programs for the aged.

#### FUNCTIONS

SEC. 463. (a) The Secretary (1) shall, through the Institute, carry out the purposes of section 301 with respect to research investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of the aged, except that the Secretary shall determine the area in which and the extent to which he will carry out such activities in furtherance of the purposes of section 301 through the Institute or another institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter, and (2) shall be responsible for coordinating such activities so as to avoid unproductive and unnecessary overlap and duplication of such functions. The Secretary may also provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged. The Secretary may provide trainees and fellows participating in such training and instruction or in such traineeships and fellowships with such stipends and allowances (including travel and subsistence expenses and dependency allowances) as he deems necessary, and, in addition, provide for such training, instruction, traineeships, fellowships through grants to public or other nonprofit institutions. In carrying out his health manpower training responsibilities under this Act or any other Act, the Sec-

42 U.S.C.  
289k-4

retary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by the Department of Health, Education, and Welfare.

(c) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute-sponsored and other relevant aging research and studies and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

#### RESEARCH PROGRAM

42 U.S.C.  
289k-5

SEC. 464 (a) The Secretary, in consultation with the Institute and the National Advisory Council on Aging and such other appropriate advisory bodies as he may establish, shall within two years after the effective date of this section develop a plan for a research program on aging designed to coordinate and promote research into the biological, medical, psychological, social, educational, and economic aspects of aging. Such program shall be carried out, as to research involving the functions of the Institute, primarily through the Institute, and as to other research shall be carried out through any other institute established by or under other provisions of this Act or through any appropriate agency or other organizational unit within the Department of Health, Education, and Welfare.

(b) Upon its completion, the plan for a research program on aging, required by subsection (a) of this section, shall be transmitted to the Congress and to the President and shall set forth the staffing and funding requirements to carry out such program.

#### PART I—GENERAL PROVISIONS

##### DIRECTORS OF INSTITUTES

42 U.S.C. 289l

SEC. 471. The Director of the National Institutes of Health shall be appointed by the President by and with the advice and consent of the Senate; and the Director of the National Cancer Institute shall be appointed by the President. Except as provided in section 407(b)(9), the Director of the National Cancer Institute shall report directly to the Director of the National Institutes of Health.



## NATIONAL RESEARCH SERVICE AWARDS

SEC. 472. (a) (1) The Secretary shall—

42 U.S.C.  
2891-1

(A) provide National Research Service Awards for—

(i) biomedical and behavioral research at the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration or under programs administered by the Division of Nursing of the Health Resources Administration, in matters relating to the cause, diagnosis, prevention, and treatment of the diseases or other health problems or Division of Nursing.

(ii) training at the Institutes and Administration of individuals to undertake such research,

(iii) biomedical and behavioral research at public institutions and at nonprofit private institutions, and

(iv) pre- and post doctoral training at such public and private institutions of individuals to undertake such research; and

(B) make grants to public institutions and to nonprofit private institutions to enable such institutions to make to individuals selected by them National Research Service Awards for research (and training to undertake such research) in the matters described in subparagraph (A) (i).

A reference in this subsection to the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration shall be considered to include the institutes, divisions, and bureaus included in the Institutes or under the Administration, as the case may be.

(2) National Research Service Awards may not be used to support residencies.

(3) Effective July 1, 1975, National Research Service Awards may be made for research or research training in only those subject areas for which, as determined under section 473, there is a need for personnel.

(b) (1) No National Research Service Award may be made by the Secretary to any individual unless—

(A) the individual has submitted to the Secretary an application therefor and the Secretary has approved the application;

(B) the individual provides, in such form and manner as the Secretary shall by regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the service requirement of subsection (c) (1); and

(C) in the case of a National Research Service Award for a purpose described in subsection (a) (1) (A) (iii) or (a) (1) (A) (iv), the individual has been sponsored (in such manner as the Secretary may by

regulation require) by the institution at which the research or training under the Award will be conducted.

An application for an Award shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe.

(2) The award of National Research Service Awards by the Secretary under subsection (a) and the making of grants for such Awards shall be subject to review and approval by the appropriate advisory councils within the Department of Health, Education, and Welfare (A) whose activities relate to the research or training under the Awards, or (B) at which such research or training will be conducted.

(3) No grant may be made under subsection (a) (1) (B) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe. Subject to the provisions of this section other than paragraph (1) of this subsection, National Research Service Awards made under a grant under subsection (a) (1) (B) shall be made in accordance with such regulations as the Secretary shall prescribe.

(4) The period of any National Research Service Award made to any individual under subsection (a) may not exceed three years in the aggregate unless the Secretary for good cause shown waives the application of the three-year limit to such individual.

(5) National Research Service Awards shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the recipients of the Awards as the Secretary may deem necessary. A National Research Service Award made to an individual for research or research training at a non-Federal public or nonprofit private institution shall also provide for payments to be made to the institution for the cost of support services (including the cost of faculty salaries, supplies, equipment, general research support, and related items) provided such individual by such institution. The amount of any such payments to any institution shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the institution for establishing and maintaining the quality of its biomedical and behavioral research and training programs.

(c) (1) (A) Each individual who receives a National Research Service Award shall, in accordance with paragraph (3), engage in—

(i) health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment,

(ii) if authorized under subparagraph (B), serve as a member of the National Health Service Corps or serve in his specialty, or

(iii) if authorized under subparagraph (C), serve in a health related activity approved under that subparagraph,

for a period computed in accordance with paragraph (2).

(B) Any individual who received a National Research Service Award and who is a physician, dentist, nurse, or other individual trained to provide health care directly to individual patients may, upon application to the Secretary, be authorized by the Secretary to—

(i) serve as a member of the National Health Service Corps,

(ii) serve in his specialty in private practice in a geographic area designated by the Secretary as requiring that specialty, or

(iii) provides services in his specialty for a health maintenance organization to which payments may be made under section 1876 of title XVIII of the Social Security Act and which serves a medically underserved population (as defined in section 1302 (7) of this Act),

in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

(C) Where appropriate the Secretary may, upon application, authorize a recipient of a National Research Service Award, who is not trained to provide health care directly to individual patients, to engage in a health-related activity in lieu of engaging in health research or teaching if the Secretary determines that there are no suitable health research or teaching positions available to such individual.

(2) For each year for which an individual receives a National Research Service Award he shall—

(A) for twelve months engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or, if so authorized, serve as a member of the National Health Service Corps, or

(B) if authorized under paragraph (1)(B) or (1)(C), for twenty months serve in his specialty or engage in a health-related activity.

(3) The requirement of paragraph (1) shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of such individual's Award, as the Secretary shall by regulation prescribe. The Secretary shall (A) by regulation prescribe (i) the type of research and teaching which an



individual may engage in to comply with such requirement, and (ii) such other requirements respecting such research and teaching and alternative service authorized under paragraphs (1) (B) and (1) (C) as he deems necessary; and (B) to the extent feasible, provide that the members of the National Health Service Corps who are serving in the Corps to meet the requirement of paragraph (1) shall be assigned to patient care and to positions which utilize the clinical training and experience of the members.

(4) (A) If any individual to whom the requirement of paragraph (1) is applicable fails, within the period prescribed by paragraph (3), to comply with such requirement, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula—

$$A = \phi \left( \frac{t - \frac{1}{2}s}{t} \right)$$

in which "A" is the amount the United States is entitled to recover; " $\phi$ " is the sum of the total amount paid under one or more National Research Service Awards to such individual; "t" is the total number of months in such individual's service obligation; and "s" is the number of months of such obligation served by him in accordance with paragraphs (1) and (2) of this subsection.

(B) Any amount which the United States is entitled to recover under subparagraph (A) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under subparagraph (A) on account of any National Research Service Award is paid, there shall accrue to the United States interest on such amount at a rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to such amount.

(5) (A) Any obligation of any individual under paragraph (3) shall be canceled upon the death of such individual.

(B) The Secretary shall by regulation provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

(d) There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such Awards \$207,947,000 for the fiscal year ending June 30, 1975, \$165,000,000 for fiscal year 1976, \$185,000,000 for the fiscal year ending September 30, 1977, and \$161,390,000 for the fiscal year ending September 30, 1978. Of the sums appropriated under this subsection, not less than 25 per centum shall be made avail-

able for payments under National Research Service Awards provided by the Secretary under subsection (a) (1) (A).

STUDIES RESPECTING BIOMEDICAL AND BEHAVIORAL  
RESEARCH PERSONNEL

SEC. 473. (a) The Secretary shall, in accordance with subsection (b), arrange for the conduct of a continuing study to—

42 U.S.C.  
2891-2

(1) establish (A) the Nation's overall need for biomedical and behavioral research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

(2) assess (A) current training programs available for the training of biomedical and behavioral research personnel which are conducted under this Act at or through institutes under the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration, and (B) other current training programs available for the training of such personnel;

(3) identify the kinds of research positions available to and held by individuals completing such programs;

(4) determine, to the extent feasible, whether the programs referred to in clause (B) of paragraph (2) would be adequate to meet the needs established under paragraph (1) if the programs referred to in clause (A) of paragraph (2) were terminated; and

(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

(b) (1) The Secretary shall request the National Academy of Sciences to conduct the study required by subsection (a) under an arrangement under which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such study.

(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in subsection (c).

(3) The National Academy of Sciences or other group or association conducting the study required by subsection (a) shall conduct such study in consultation with the Director of the National Institute of Health.

(c) A report on the results of such study shall be submitted by the Secretary to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate not later than September 30 of each year.

#### INSTITUTIONAL REVIEW BOARDS; ETHICS GUIDANCE PROGRAM

42 U.S.C.  
2891-3

SEC. 474. (a) The Secretary shall by regulation require that each entity which applies for a grant or contract under this Act for any project or program which involves the conduct of biomedical or behavioral research involving human subjects submit in or with its application for such grant or contract assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an "Institutional Review Board") to review biomedical and behavioral research involving human subjects conducted at or sponsored by such entity in order to protect the rights of the human subjects of such research.

(b) The Secretary shall establish a program within the Department under which requests for clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects are responded to promptly and appropriately.

#### PEER REVIEW OF GRANT APPLICATIONS AND CONTRACT PROJECTS

42 U.S.C.  
2891-4

SEC. 475. (a) The Secretary, after consultation with the Director of the National Institutes of Health, and, where appropriate, the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall by regulation require appropriate scientific peer review of—

(1) applications made after the effective date of such regulations for grants under this Act for biomedical and behavioral research; and

(2) biomedical and behavioral research and development contract projects to be administered after such effective date through an institute established under this title, the National Institute on Alcohol Abuse and Alcoholism, or the National Institute on Drug Abuse.

(b) Regulations promulgated under subsection (a) shall, to the extent practical, require that the review of grant applications required by the regulations be conducted—

(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of this section to applications for grants



under this Act for biomedical and behavioral research, and

(2) by peer review groups performing such review on or before such date.

(c) The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

#### VISITING SCIENTIST AWARDS

SEC. 476. (a) The Secretary may make awards (referred to as "Visiting Scientist Awards") to outstanding scientists who agree to serve as visiting scientists at institutions of post-secondary education which have significant enrollments of disadvantaged students. Visiting Scientist Awards shall be made by the Secretary to enable the faculty and students of such institutions to draw upon the special talents of scientists from other institutions for the purpose of receiving guidance, advice, and instruction with regard to research, teaching, and curriculum development in the biomedical and behavioral sciences and such other aspects of these sciences as the Secretary shall deem appropriate.

42 U.S.C. 2891-5

(b) The amount of each Visiting Scientist Award shall include such sum as shall be commensurate with the salary or remuneration which the individual receiving the award would have been entitled to receive from the institution with which the individual has, or had, a permanent or immediately prior affiliation. Eligibility for and terms of Visiting Scientist Awards shall be determined in accordance with regulations the Secretary shall prescribe.

## TITLE V—MISCELLANEOUS

### GIFTS

42 U.S.C. 219

SEC. 501. (a) The Secretary is authorized to accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Surgeon General, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted pursuant to the authority granted in subsection (a) of this section, the net proceeds from the liquidation (pursuant to subsection (c) or subsection (d) of this section) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in subsection (a) of this section shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary, whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (b) of this section.

(d) The Secretary shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in subsection (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b) of this section: *Provided*, That the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.

#### USE OF IMMIGRATION STATION HOSPITALS

SEC. 502. The Immigration and Naturalization Service may, by agreement of the heads of the departments concerned, permit the Public Health Service to use hospitals at immigration stations for the care of Public Health Service patients. The Surgeon General shall reimburse the Immigration and Naturalization Service for the actual cost of furnishing fuel, light, water, telephone, and similar supplies and services, which reimbursement shall be covered into the proper Immigration and Naturalization Service appropriation, or such costs may be paid from working funds established as provided by law, but no charge shall be made for the expense of physical upkeep of the hospitals. The Immigration and Naturalization Service shall reimburse the Surgeon General for the care and treatment of persons detained in hospitals of the Public Health Service at the request of the Immigration and Naturalization Service unless such persons are entitled to care and treatment under section 322 (a).

42 U.S.C. 220

#### MONEY COLLECTED FOR CARE OF PATIENTS

SEC. 503. Money collected as provided by law for expenses incurred in the care and treatment of foreign seamen, and money received for the care and treatment of pay patients, including any amounts received from any executive department on account of care and treatment of pay patients, shall be covered into the appropriation from which the expenses of such care and treatment were paid.

42 U.S.C. 221



## CARE OF PUBLIC HEALTH SERVICE PATIENTS AT SAINT ELIZABETHS HOSPITAL

42 U.S.C. 222

SEC. 504. Insane patients entitled to treatment by the Service shall be admitted, upon order of the Secretary, into Saint Elizabeths Hospital or, upon order of the Surgeon General, into any hospital, institution, or station of the Service especially equipped for the accommodation of such patients and shall be cared for and treated therein until cured or until ordered removed by the officer authorizing such admittance. Funds available for the operation of such hospitals, institutions, and stations of the Service shall also be available for expenditure to meet court costs and other expenses of the Service incident to proceedings for the commitment, to Saint Elizabeths Hospital or to any hospital, institution, or station of the Service, of any mentally incompetent person entitled to treatment by the Service.

## SETTLEMENT OF CLAIMS

42 U.S.C. 223

SEC. 505. The Secretary may consider, ascertain, adjust, and determine any claim which shall accrue, on account of damages occasioned by collisions or incident to the operation of vessels of the Service, and for which damages such vessels are found by him to be responsible. To be considered for settlement under this section, claims must be presented to the Secretary within one year of their accrual. The amount ascertained and determined to be due any claimant, not exceeding \$3,000 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made therefor by Congress, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed. Acceptance by any claimant of the amount determined to be due under this section shall be deemed to be in full and final settlement of such claim against the Government of the United States.

## TRANSPORTATION OF REMAINS OF OFFICERS

42 U.S.C. 224

SEC. 506. Appropriations available for traveling expenses of the Service shall be available for meeting the cost of preparation for burial and of transportation to the place of burial of remains of commissioned officers, and of personnel specified in regulations, who die in line of duty. Appropriations available for carrying out the provisions of this Act shall also be available for the payment of such expenses relating to the recovery, care, and disposition of the remains of personnel or their dependents as may be authorized under other provisions of law.

## GRANTS TO FEDERAL INSTITUTIONS

SEC. 507. Appropriations to the Public Health Service available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities shall also be available, on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to Federal institutions, except that grants to such Federal institutions may be funded at 100 per centum of the costs.

42 U.S.C. 225a

## TRANSFER OF FUNDS

SEC. 508. For the purpose of any reorganization under section 202, the Secretary, with the approval of the Director of the Bureau of the Budget,<sup>1</sup> is authorized to make such transfers of funds between appropriations as may be necessary for the continuance of transferred functions.

42 U.S.C. 226

## AVAILABILITY OF APPROPRIATIONS

SEC. 509. Appropriations for carrying out the purposes of this Act shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, children of personnel who have quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Secretary, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institute of Health.

42 U.S.C. 227

<sup>1</sup> Bureau of the Budget is now the Office of Management and Budget.

## UNAUTHORIZED WEARING OF UNIFORMS

42 U.S.C. 228

SEC. 510. Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service.

## ANNUAL REPORT

42 U.S.C. 229

SEC. 511. The Surgeon General shall transmit to the Secretary, for submission to the Congress at the beginning of each regular session, a full report of the administration of the functions of the Service under this Act, including a detailed statement of receipts and disbursements.

## MEMORIALS AND OTHER ACKNOWLEDGMENTS

42 U.S.C. 229a

SEC. 512. The Secretary may provide for suitably acknowledging, within the Department (whether by memorials, designations, or other suitable acknowledgments), (1) efforts of persons who have contributed substantially to the health of the Nation and (2) gifts for use in activities of the Department related to health.

## EVALUATION OF PROGRAMS

42 U.S.C. 229b

SEC. 513. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this Act, the Mental Retardation Facilities Construction Act, the Community Mental Health Centers Act, the Act of August 5, 1954 (Public Law 568, Eighty-third Congress),<sup>1</sup> or the Act of August 16, 1957 (Public Law 85-151),<sup>1</sup> for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this Act or any of such other Acts, and, in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly.

<sup>1</sup> Relates to Indian hospitals and health facilities, 42 U.S.C. 2001 et seq.



# <sup>1</sup> TITLE VI—ASSISTANCE FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

## DECLARATION OF PURPOSE

SEC. 600. The purpose of this title is—

42 U.S.C. 291

(a) to assist the several States in the carrying out of their programs for the construction and modernization of such public or other nonprofit community hospitals and other medical facilities as may be necessary, in conjunction with existing facilities, to furnish adequate hospital, clinic, or similar services to all their people;

(b) to stimulate the development of new or improved types of physical facilities for medical, diagnostic, preventive, treatment, or rehabilitative services; and

(c) to promote research, experiments, and demonstrations relating to the effective development and utilization of hospital, clinic, or similar services, facilities, and resources, and to promote the coordination of such research, experiments, and demonstrations and the useful application of their results.

## PART A—GRANTS AND LOANS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

### AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION AND MODERNIZATION GRANTS

SEC. 601. In order to assist the States in carrying out the purposes of section 600, there are authorized to be appropriated— <sup>42 U.S.C. 291a</sup>

(a) for the fiscal year ending June 30, 1974—

(1) \$20,800,000 for grants for the construction of public or other nonprofit facilities for long-term care;

(2) \$70,000,000 for grants for the construction of public or other nonprofit outpatient facilities;

(3) \$15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

(b) for grants for the construction of public or other nonprofit hospitals and public health centers,

<sup>1</sup> This title has been superseded by title XVI.

\$150,000,000 for the fiscal year ending June 30, 1965, \$160,000,000 for the fiscal year ending June 30, 1966, \$170,000,000 for the fiscal year ending June 30, 1967, \$180,000,000 each for the next two fiscal years, \$195,000,000 for the fiscal year ending June 30, 1970, \$147,500,000 for the fiscal year ending June 30, 1971, \$152,500,000 for the fiscal year ending June 30, 1972, \$157,500,000 for the fiscal year ending June 30, 1973, and \$41,400,000 for the fiscal year ending June 30, 1974; and

(c) for grants for modernization of the facilities referred to in paragraphs (a) and (b), \$65,000,000 for the fiscal year ending June 30, 1971, \$80,000,000 for the fiscal year ending June 30, 1972, \$90,000,000 for the fiscal year ending June 30, 1973, and \$50,000,000 for the fiscal year ending June 30, 1974.

#### STATE ALLOTMENTS

42 U.S.C. 291b

SEC. 602. (a) (1) Each State shall be entitled for each fiscal year to an allotment bearing the same ratio to the sums appropriated for such year pursuant to subparagraphs (1), (2), and (3), respectively, of section 601(a), and to an allotment bearing the same ratio to the sums appropriated for such year pursuant to section 601(b), as the product of—

(A) the population of such State, and

(B) the square of its allotment percentage, bears to the sum of the corresponding products for all of the States.

(2) For each fiscal year, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated for such year under section 601(c), on the basis of the population, the financial need, and the extent of the need for modernization of the facilities referred to in paragraphs (a) and (b) of section 601, of the respective States.

(b) (1) The allotment to any State under subsection (a) for any fiscal year which is less than—

(A) \$50,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and \$100,000 for any other State, in the case of an allotment for grants for the construction of public or other nonprofit rehabilitation facilities.

(B) \$100,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and \$200,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit outpatient facilities,

(C) \$200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands,

or Guam and \$300,000 for any other State in the case of an allotment for grants for the construction of public or other nonprofit facilities for long-term care or for the construction of public or other nonprofit hospitals and public health centers, or for the modernization of facilities referred to in paragraph (a) or (b) of section 601, or

(D) \$200,000 for the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam and \$300,000 for any other State in the case of an allotment for grants for the modernization of facilities referred to in paragraphs (a) and (b) of section 601,

shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment from appropriations under such subparagraph or paragraph to each of the remaining States under subsection (a) of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from appropriations under such subparagraph or paragraph from being thereby reduced to less than that amount.

(2) An allotment of the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam for any fiscal year may be increased as provided in paragraph (1) only to the extent it satisfies the Surgeon General, at such time prior to the beginning of such year as the Surgeon General may designate, that such increase will be used for payments under and in accordance with the provisions of this part.

(c) For the purposes of this part—

(1) The "allotment percentage" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than  $33\frac{1}{3}$  per centum, and (B) the allotment percentage for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be 75 per centum.

(2) The allotment percentages shall be determined by the Surgeon General between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce, and the States shall be notified promptly thereof. Such determination shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such determination.

(3) The population of the several States shall be de-



terminated on the basis of the latest figures certified by the Department of Commerce.

(4) The term "United States" means (but only for purposes of paragraphs (1) and (2)) the fifty States and the District of Columbia.

(d) (1) Any sum allotted to a State, other than the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to such State for such purposes for such next two fiscal years.

(2) Any sum allotted to the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam for a fiscal year under this section and remaining unobligated at the end of such year shall remain available to it, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years.

(e) (1) Upon the request of any State that a specified portion of any allotment of such State under subsection (a) for any fiscal year be added to any other allotment or allotments of such State under such subsection for such year, the Secretary shall promptly (but after application of subsection (b)) adjust the allotments of such State in accordance with such request and shall notify the State agency; except that the aggregate of the portions so transferred from an allotment for a fiscal year pursuant to this paragraph may not exceed the amount specified with respect to such allotment in clause (A), (B), (C), or (D), as the case may be, of subsection (b) (1) which is applicable to such State.

(2) In addition to the transfer of portions of allotments under paragraph (1), upon the request of any State that a specified portion of any allotment of such State under subsection (a), other than an allotment for grants for the construction of public or other nonprofit rehabilitation facilities, be added to another allotment of such State under such subsection, other than an allotment for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification to the Secretary by the State agency in such State to the effect that—

(A) it has afforded a reasonable opportunity to make applications for the portion so specified and there have been no approvable applications for such portions, or

(B) in the case of a request to transfer a portion of an allotment for grants for the construction of public or other nonprofit hospitals and public health

centers, use of such portion as requested by such State agency will better carry out the purposes of this title,

the Secretary shall promptly (but after application of subsection (b)) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(3) In addition to the transfer of portions of allotments under paragraph (1) or (2), upon the request of any State that a specified portion of an allotment of such State under paragraph (2) of subsection (a) be added to an allotment of such State under paragraph (1) of such subsection for grants for the construction of public or other nonprofit hospitals and public health centers, and upon simultaneous certification by the State agency in such State to the effect that the need for new public or other nonprofit hospitals and public health centers is substantially greater than the need for modernization of facilities referred to in paragraph (a) or (b) of section 601, the Secretary shall promptly (but after application of subsection (b) of this section) adjust the allotments of such State in accordance with such request and shall notify the State agency.

(4) After adjustment of allotments of any State, as provided in paragraph (1), (2), or (3) of this subsection, the allotments as so adjusted shall be deemed to be the State's allotments under this section.

(f) In accordance with regulations, any State may file with the Surgeon General a request that a specified portion of an allotment to it under this part for grants for construction of any type of facility, or for modernization of facilities, be added to the corresponding allotment of another State for the purpose of meeting a portion of the Federal share of the cost of a project for the construction of a facility of that type in such other State, or for modernization of a facility in such other State, as the case may be. If it is found by the Surgeon General (or, in the case of a rehabilitation facility, by the Surgeon General and the Secretary) that construction or modernization of the facility with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this title, such portion of such State's allotment shall be added to the corresponding allotment of the other State, to be used for the purpose referred to above.

#### GENERAL REGULATIONS

SEC. 603. The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health, Education, and Welfare, shall by general regulations prescribe— 42 U.S.C. 291c

(a) the general manner in which the State agency shall determine the priority of projects based on the relative need of different areas lacking adequate facilities of various types for which assistance is available under this part, giving special consideration—

(1) in the case of projects for the construction of hospitals, to facilities serving areas with relatively small financial resources and, at the option of the State, rural communities;

(2) in the case of projects for the construction of rehabilitation facilities, to facilities operated in connection with a university teaching hospital which will provide an integrated program of medical, psychological, social, and vocational evaluation and services under competent supervision;

(3) in the case of projects for modernization of facilities, to facilities serving densely populated areas;

(4) in the case of projects for construction or modernization of outpatient facilities, to any outpatient facility that will be located in, and provide services for residents of, an area determined by the Secretary to be a rural or urban poverty area;

(5) to projects for facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(6) to facilities which will provide training in health or allied health professions; and

(7) to facilities which will provide to a significant extent, for the treatment of alcoholism;

(b) general standards of construction and equipment for facilities of different classes and in different types of location, for which assistance is available under this part;

(c) criteria for determining needs for general hospital and long-term care beds, and needs for hospitals and other facilities for which aid under this part is available, and for developing plans for the distribution of such beds and facilities;

(d) criteria for determining the extent to which existing facilities, for which aid under this part is available, are in need of modernization; and

(e) that the State plan shall provide for adequate hospitals, and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor. Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be



constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

## STATE PLANS

SEC. 604. (a) Any State desiring to participate in this part may submit a State plan. Such plan must— 42 U.S.C. 291d

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include (A) representatives of non-governmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention, or treatment of illness or disease, or for provision of rehabilitation services, and representatives particularly concerned with education or training of health professions personnel, and (B) an equal number of representatives of consumers familiar with the need for the services provided by such facilities, to consult with the State agency in carrying out the plan, and provide, if such council does not include any representatives of non-governmental organizations or groups, or State agencies, concerned with rehabilitation, for consultation with organizations, groups, and State agencies so concerned;

(4) set forth, in accordance with criteria established in regulations prescribed under section 603 and on the basis of a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to such regulations) community, area, or regional plans—

(A) the number of general hospital beds and long-term care beds, and the number and types of hospital facilities and facilities for long-term care, needed to provide adequate facilities for inpatient care of people residing in the State, and a plan for the distribution of such beds and facilities in service areas throughout the State;

(B) the public health centers needed to provide adequate public health services for people residing in the State, and a plan for the distribution of such centers throughout the State;

(C) the outpatient facilities needed to provide adequate diagnostic or treatment services to ambulatory patients residing in the State, and a plan for distribution of such facilities throughout the State;

(D) the rehabilitation facilities needed to assure adequate rehabilitation services for disabled persons residing in the State, and a plan for distribution of such facilities throughout the State; and

(E) effective January 1, 1966, the extent to which existing facilities referred to in section 601 (a) or (b) in the State are in need of modernization;

(5) set forth a construction and modernization program conforming to the provisions set forth pursuant to paragraph (4) and regulations prescribed under section 603 and providing for construction or modernization of the hospital or long-term care facilities, public health centers, outpatient facilities and rehabilitation facilities which are needed, as determined under the provisions so set forth pursuant to paragraph (4);

(6) set forth, with respect to each of such types of medical facilities, the relative need, determined in accordance with regulations prescribed under section 603, for projects for facilities of that type, and provide for the construction or modernization, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of facilities providing inpatient care which receive aid under this part and, effective July 1, 1966, provide for enforcement of such standards with respect to projects approved by the Surgeon General under this part after June 30, 1964;

(8)<sup>1</sup> provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Surgeon General to be

<sup>1</sup> See footnote 1 on page 53.

necessary for the proper and efficient operation of the plan;

(9) provide for affording to every applicant for a construction or modernization project an opportunity for a hearing before the State agency;

(10) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports;

(11) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (10);

(12) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Surgeon General any modifications thereof which it considers necessary; and

(13) effective July 1, 1971, provide that before any project for construction or modernization of any general hospital is approved by the State agency there will be reasonable assurance of adequate provision for extended care services (as determined in accordance with regulations) to patients of such hospital when such services are medically appropriate for them, with such services being provided in facilities which (A) are structurally part of, physically connected with, or in immediate proximity to, such hospital, and (B) either (i) are under the supervision of the professional staff of such hospital or (ii) have organized medical staffs and have in effect transfer agreements with such hospital; except that the Secretary may, at the request of the State agency, waive compliance with clause (A) or (B), or both such clauses, as the case may be, in the case of any project if the State agency has determined that compliance with such clause or clauses in such case would be inadvisable.

(b) The Surgeon General shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). If any such plan or modification thereof shall have been disapproved by the Surgeon General for failure to comply with subsection (a), the Federal Hospital Council shall, upon request of the State agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Surgeon General shall thereupon approve such plan or modification.



APPROVAL OF PROJECTS FOR CONSTRUCTION OR  
MODERNIZATION

42 U.S.C. 291e

**SEC. 605. (a)** For each project pursuant to a State plan approved under this part, there shall be submitted to the Surgeon General, through the State agency, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

(1) a description of the site for such project;

(2) plans and specifications therefor, in accordance with regulations prescribed under section 603;

(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility on completion of the project;

(4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed;

(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

(6) a certification by the State agency of the Federal share for the project.

**(b)** The Surgeon General shall approve such application if sufficient funds to pay the Federal share of the cost of such project are available from the appropriate allotment to the State, and if the Surgeon General finds (1) that the application contains such reasonable assurance as to title, financial support, and payment of prevailing rates of wages; (2) that the plans and specifications are in accord with the regulations prescribed pursuant to section 603; (3) that the application is in conformity with the State plan approved under section 604 and contains an assurance that in the operation of the project there will be compliance with the applicable requirements of the regulations prescribed under section 603(e),

and with State standards for operation and maintenance; and (4) that the application has been approved and recommended by the State agency, opportunity has been provided, prior to such approval and recommendation, for consideration of the project by the public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) covering the area in which such project is to be located or, if there is no such agency or organization, by the State agency administering or supervising the administration of the State plan approved under section 314(a), and the application is for a project which is entitled to priority over other projects within the State in accordance with the regulations prescribed pursuant to section 603(a). Notwithstanding the preceding sentence, the Surgeon General may approve such an application for a project for construction or modernization of a rehabilitation facility only if it is also approved by the Secretary of Health, Education, and Welfare.

(c) No application shall be disapproved until the Surgeon General has afforded the State agency an opportunity for a hearing.

(d) Amendment of any approved application shall be subject to approval in the same manner as an original application.

(e) Notwithstanding any other provision of this title, no application for an outpatient facility shall be approved under this section unless the applicant is (1) a State, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital (as defined in section 645) or which provides reasonable assurance that the services of a general hospital will be available to patients of such facility who are in need of hospital care.

#### PAYMENTS FOR CONSTRUCTION OR MODERNIZATION

SEC. 606. (a) Upon certification to the Surgeon General by the State agency, based upon inspection by it, that work has been performed upon a project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, or if the State so requests, the payment shall be made directly to the applicant, (2) if the Surgeon General, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 607, payment may, after he has given the State

42 U.S.C. 291f

agency notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (3) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(b) In case an amendment to an approved application is approved as provided in section 605 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(c) (1) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Surgeon General for the proper and efficient administration during such year of the State plan approved under this part; except that not more than 4 per centum of the total of the allotments of such State for a year, or \$100,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Surgeon General may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under this part not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1970.

#### WITHHOLDING OF PAYMENTS

42 U.S.C. 291g

SEC. 607. Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State agency designated as provided in section 604(a)(1), finds—

(a) that the State agency is not complying substantially with the provisions required by section 604 to be included in its State plan; or

(b) that any assurance required to be given in an application filed under section 605 is not being or cannot be carried out; or

(c) that there is a substantial failure to carry out plans and specifications approved by the Surgeon General under section 605; or

(d) that adequate State funds are not being provided annually for the direct administration of the State plan,



the Surgeon General may forthwith notify the State agency that—

(e) no further payments will be made to the State under this part, or

(f) no further payments will be made from the allotments of such State from appropriations under any one or more subparagraphs or paragraphs of section 601, or for any project or projects, designated by the Surgeon General as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section, as the Surgeon General may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments may be withheld, in whole or in part, until there is no longer any failure to comply (or carry out the assurance or plans and specifications or provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

#### JUDICIAL REVIEW

SEC. 608. (a) If the Surgeon General refuses to approve any application for a project submitted under section 605 or section 610, the State agency through which such application was submitted, or if any State is dissatisfied with his action under section 607 such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Surgeon General or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Surgeon General may modify or set aside his order.

(b) The findings of the Surgeon General as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact

42 U.S.C. 291h

shall likewise be conclusive if supported by substantial evidence.

(c) The judgment of the court affirming or setting aside, in whole or in part, any action of the Surgeon General shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Surgeon General's action.

#### RECOVERY

42 U.S.C. 2911

SEC. 609. If any facility with respect to which funds have been paid under section 606 shall, at any time within twenty years after the completion of construction—

(a) be sold or transferred to any person, agency, organization (1) which is not qualified to file an application under section 605, or (2) which is not approved as a transferee by the State agency designated pursuant to section 604, or its successor, or

(b) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility, unless the Surgeon General determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from this obligation,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction or modernization under such project or projects. Such right of recovery shall not constitute a lien upon said facility prior to judgment.

#### LOANS FOR CONSTRUCTION OR MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

42 U.S.C. 291J

SEC. 610. (a) In order further to assist the States in carrying out the purposes of this title, the Surgeon General is authorized to make a loan of funds to the applicant for any project for construction or modernization which meets all of the conditions specified for a grant under this part.

(b) Except as provided in this section, an application for a loan with respect to any project under this part

shall be submitted, and shall be approved by the Surgeon General, in accordance with the same procedures and subject to the same limitations and conditions as would be applicable to the making of a grant under this part for such project. Any such application may be approved in any fiscal year only if sufficient funds are available from the allotment for the type of project involved. All loans under this section shall be paid directly to the applicant.

(c) (1) The amount of a loan under this part shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Where a loan and a grant are made under this part with respect to the same project, the aggregate amount of such loan and such grant shall not exceed an amount equal to the Federal share of the estimated cost of construction or modernization under the project. Each loan shall bear interest at the rate arrived at by adding one-quarter of 1 per centum per annum to the rate which the Secretary of the Treasury determines to be equal to the current average yield on all outstanding marketable obligations of the United States as of the last day of the month preceding the date the application for the loan is approved and by adjusting the result so obtained to the nearest one-eighth of 1 per centum. Each loan made under this part shall mature not more than forty years after the date on which such loan is made, except that nothing in this part shall prohibit the payment of all or part of the loan at any time prior to the maturity date. In addition to the terms and conditions provided for, each loan under this part shall be made subject to such terms, conditions, and covenants relating to repayment of principal, payment of interest, and other matters as may be agreed upon by the applicant and the Surgeon General.

(2) The Surgeon General may enter into agreements modifying any of the terms and conditions of a loan made under this part whenever he determines such action is necessary to protect the financial interest of the United States.

(3) If, at any time before a loan for a project has been repaid in full, any of the events specified in clause (a) or clause (b) of section 609 occurs with respect to such project, the unpaid balance of the loan shall become immediately due and payable by the applicant, and any transferee of the facility shall be liable to the United States for such repayment.

(d) Any loan under this part shall be made out of the allotment from which a grant for the project concerned would be made. Payments of interest and repayments of principal on loans under this part shall be deposited in the Treasury as miscellaneous receipts.



**PART B—LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF HOSPITALS AND OTHER MEDICAL FACILITIES**

**AUTHORIZATION OF LOAN GUARANTEES AND LOANS**

42 U.S.C.  
291j-1

SEC. 621. (a) (1) In order to assist nonprofit private agencies to carry out needed projects for the modernization or construction of nonprofit private hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1974, may, in accordance with the provisions of this part, guarantee to non-Federal lenders making loans to such agencies for such projects, payment of principal of and interest on loans, made by such lenders, which are approved under this part.

(2) In order to assist public agencies to carry out needed projects for the modernization or construction of public health centers, and public hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1970, through June 30, 1974, may, in accordance with the provisions of this part, make loans to such agencies which shall be sold and guaranteed in accordance with section 627.

(b) (1) No loan guarantee under this part with respect to any modernization or construction project may apply to so much of the principal amount thereof as, when added to the amount of any grant or loan under part A with respect to such project, exceeds 90 per centum of the cost of such project.

(2) No loan to a public agency under this part shall be made in an amount which, when added to the amount of any grant or loan under part A with respect to such project, exceeds 90 per centum of the cost of such project.

(c) The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

**ALLOCATION AMONG THE STATES**

42 U.S.C.  
291j-2

SEC. 622. (a) For each fiscal year, the total amount of principal of loans to nonprofit private agencies which may be guaranteed or loans to public agencies which may be directly made under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of each State's relative population, financial need, need for construction of the facilities referred to in section 621(a), and need for modernization of such facilities.

(b) Any amount allotted under subsection (a) to a State for a fiscal year ending before July 1, 1973, and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for each of such next two fiscal years; except that, with the consent of any such State, any such amount remaining unobligated at the end of the first of such next fiscal year may be reallocated (on such basis as the Secretary deems equitable and consistent with the purposes of this title) to other States which have need therefor. Any amounts so reallocated to a State shall be available for the purposes for which made until the close of the second such next two fiscal years and shall be in addition to the amount allotted and available to such State for the same period.

(c) Any amount allotted or reallocated to a State under this section for a fiscal year shall not, until the expiration of the period during which it is available for obligation, be considered as available for allotment for a subsequent fiscal year.

(d) The allotments of any State under subsection (a) for the fiscal year ending June 30, 1971, and the succeeding fiscal year shall also be available to guarantee loans with respect to any project, for modernization or construction of a nonprofit private hospital or other health facility referred to in section 621(a)(1), if the modernization or construction of such facility was not commenced earlier than January 1, 1968, and if the State certifies and the Secretary finds that without such guaranteed loan such facility could not be completed and begin to operate or could not continue to operate, but with such guaranteed loan would be able to do so: *Provided*, That this subsection shall not apply to more than two projects in any one State.

#### APPLICATIONS AND CONDITIONS

SEC. 623. (a) For each project for which a guarantee of a loan to a nonprofit private agency or a direct loan to a public agency is sought under this part, there shall be submitted to the Secretary, through the State agency designated in accordance with section 604, an application by such private nonprofit agency or by such public agency. If two or more private nonprofit agencies, or two or more public agencies, join in the project, the application may be filed by one or more such agencies. Such application shall (1) set forth all of the descriptions, plans, specifications, assurances, and information which are required by the third sentence of section 605(a) (other

42 U.S.C.  
291J-3

than clause (6) thereof) with respect to applications submitted under that section, (2) contain such other information as the Secretary may require to carry out the purposes of this part, and (3) include a certification by the State agency of the total cost of the project and the amount of the loan for which a guarantee is sought under this part, or the amount of the direct loan sought under this part, as the case may be.

(b) The Secretary may approve such application only if—

(1) there remains sufficient balance in the allotment determined for such State pursuant to section 622 to cover the amount of the loan for which a guarantee is sought, or the amount of the direct loan sought (as the case may be), in such application,

(2) he makes each of the findings which are required by clauses (1) through (4) of section 605(b) for the approval of applications for projects thereunder (except that, in the case of the finding required under such clause (4) of entitlement of a project to a priority established under section 603(a), such finding shall be made without regard to the provisions of clauses (1) and (3) of such section),

(3) he finds that there is compliance with section 605(e),

(4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require, and

(5) he also determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(c) No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.



(e) (1) In the case of any loan to a nonprofit private agency, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any guarantee of such loan under this part, unless the Secretary for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) Guarantees of loans to nonprofit private agencies under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this part will be achieved, and, to the extent permitted by subsection (f), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(f) Any guarantee of a loan to a nonprofit private agency made by the Secretary pursuant to this part shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

#### PAYMENT OF INTEREST ON GUARANTEED LOAN

SEC. 624. (a) Subject to the provisions of subsection (b), in the case of a guarantee of any loan to a nonprofit private agency under this part with respect to a hospital or other medical facility, the Secretary shall pay, to the holder of such loan and for and on behalf of such hospital or other medical facility amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan, to a nonprofit private agency, which is guaranteed under this part shall have a contractual right to receive from the United States interest payments required by the preceding sentence. 42 U.S.C.  
291j-4

(b) Contracts to make the payments provided for in this section shall not carry an aggregate amount greater than such amount as may be provided in appropriations Acts.

#### LIMITATION ON AMOUNT OF LOANS GUARANTEED OR DIRECTLY MADE

SEC. 625. The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under this part may not exceed the lesser of— 42 U.S.C.  
291j-5

(1) such limitations as may be specified in appropriations Acts, or

(2) in the case of loans covered by allotments for for the fiscal year ending June 30, 1971, \$500,000,000; for the fiscal year ending June 30, 1972, \$1,000,000,000; and for each of the fiscal years ending June 30, 1973, and June 30, 1974.

#### LOAN GUARANTEE AND LOAN FUND

42 U.S.C.  
291j-6

SEC. 626. (a) (1) There is hereby established in the Treasury a loan guarantee and loan fund (hereinafter in this section referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts, (i) to enable him to discharge his responsibilities under guarantees issued by him under this part, (ii) for payment of interest on the loans to nonprofit agencies which are guaranteed, (iii) for direct loans to public agencies which are sold and guaranteed, (iv) for payment of interest with respect to such loans, and (v) for repurchase by him of direct loans to public agencies which have been sold and guaranteed. There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to provide capital required for the fund. To the extent authorized from time to time in appropriation Acts, there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this part, including any moneys derived from the sale of assets.

(2) Of the moneys in the fund, there shall be available to the Secretary for the purpose of making of direct loans to public agencies only such sums as shall have been appropriated for such purpose pursuant to section 627 or sums received by the Secretary from the sale of such loans (in accordance with such section) and authorized in appropriations Acts to be used for such purpose.

(b) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this part—

(i) to make payments of interest on loans to nonprofit private agencies which he has guaranteed under this part;

(ii) to otherwise comply with guarantees under this part of loans to nonprofit private agencies;

(iii) to make payments of interest subsidies with respect to loans to public agencies which he has made, sold, and guaranteed under this part:

(iv) in the event of default by public agencies to make payments of principal and interest on loans which the Secretary has made, sold, and guaranteed, under this part, to make such payments to the purchaser of such loan;

(v) to repurchase loans to public agencies which have been sold and guaranteed under this part, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

#### PROVISIONS APPLICABLE TO LOANS TO PUBLIC FACILITIES

SEC. 627. (a) (1) Any loan made by the Secretary to a public agency under this part for the modernization or construction of a public hospital or other health facility shall require such public agency to pay interest thereon at a rate comparable to the current rate of interest prevailing with respect to loans, to nonprofit private agencies, which are guaranteed under this part, for the modernization or construction of similar facilities in the same or similar areas, minus 3 per centum per annum.

(2) (A) No loan to a public agency shall be made under this part unless—

42 U.S.C.  
291j-7



(i) the Secretary is reasonably satisfied that such agency will be able to make payments of principal and interest thereon when due, and

(ii) such agency provides the Secretary with reasonable assurances that there will be available to such agency such additional funds as may be necessary to complete the project with respect to which such loan is requested.

(B) Any loan to a public agency shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provision for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

(3) In making loans to public agencies under this part, the Secretary shall give due regard to achieving an equitable geographical distribution of such loans.

(b)(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans referred to in subsection (a)(1) either on the private market or to the Federal National Mortgage Association in accordance with section 302 of the Federal National Mortgage Association Charter Act.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loan as of the time of sale.

(c)(1) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees —

(A) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(B) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary, after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(2) Any such agreement—

(A) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the public agency to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such agency under such loan;

(B) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(C) shall provide that, in the event of any default by the public agency to which such loan was made in payment of principal and interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(D) shall provide that, in the event such loan is closed out as provided in subparagraph (C), or in the event of any other loss incurred by the Secretary by reason of the failure of such public agency to make payments of principal and interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such public agency.

(d) The Secretary may, for good cause, waive any right of recovery which he has against a public agency by reason of the failure of such agency to make payments of principal and interest on a loan made to such agency under this part.

(e) After any loan to a public agency under this part has been sold and guaranteed, interest paid on such loan and any interest subsidy paid by the Secretary with respect to such loan which is received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(f) Amounts received by the Secretary as proceeds from the sale of loans under this section shall be deposited in the loan fund established by section 626, and shall be available to the Secretary for the making of further loans under this part in accordance with the provisions of subsection (a)(2) of such section.

(g) There is authorized to be appropriated to the Secretary, for deposit in the loan fund established by section 626, \$30,000,000 to provide initial capital for the making of direct loans by the Secretary to public agencies for the modernization or construction of facilities referred to in subsection (a)(1).

## PART C—CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS

### AUTHORIZATION

SEC. 631. In order to assist in the provision of adequate emergency room service in various communities of the

42 U.S.C.  
291j-8

Nation for treatment of accident victims and handling of other medical emergencies through special project grants for the construction or modernization of emergency rooms of general hospitals, there are authorized to be appropriated \$20,000,000 each for the fiscal year ending June 30, 1971, and the next two fiscal years.

#### ELIGIBILITY FOR GRANTS

42 U.S.C.  
291J-9

SEC. 632. Funds appropriated pursuant to section 631 shall be available for grants by the Secretary for not to exceed 50 per centum of the cost of construction or modernization of emergency rooms of public or nonprofit general hospitals, including provision or replacement of medical transportation facilities. Such grants shall be made by the Secretary only after consultation with the State agency designated in accordance with section 604 (a) (1) of the Public Health Service Act. In order to be eligible for a grant under this part, the project, and the applicant therefor, must meet such criteria as may be prescribed by regulations. Such regulations shall be so designed as to provide aid only with respect to projects for which adequate assistance is not readily available from other Federal, State, local, or other sources, and to assist in providing modern, efficient, and effective emergency room service needed to care for victims of highway, industrial, agricultural, or other accidents and to handle other medical emergencies, and to assist in providing such service in geographical areas which have special need therefor.

#### PAYMENTS

42 U.S.C.  
291J-10

SEC. 633. Grants under this part shall be paid in advance or by way of reimbursement, in such installments and on such conditions, as in the judgment of the Secretary will best carry out the purposes of this part.

#### PART D—GENERAL

##### FEDERAL HOSPITAL COUNCIL AND ADVISORY COMMITTEES

42 U.S.C. 291k

SEC. 641. (a) In administering this title, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman ex officio, and twelve members appointed by the Secretary of Health, Education, and Welfare. Six of the twelve appointed members shall be persons who are outstanding in fields pertaining to medical facility and health activities, and three of these six shall be authorities in matters relating to the operation of hospitals or other medical facilities, one of them shall be an authority in matters relating to the mentally retarded, and one of them shall be an authority in matters relating to mental health, and the other six members shall be appointed to repre-



sent the consumers of services provided by such facilities and shall be persons familiar with the need for such services in urban or rural areas.

(b) Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An appointed member shall not be eligible to serve continuously for more than two terms (whether beginning before or after enactment of this section) but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

(c) The Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council.

(d) The Council is authorized to appoint such special advisory or technical committees as may be useful in carrying out its functions.

#### CONFERENCE OF STATE AGENCIES

SEC. 642. Whenever in his opinion the purposes of this title would be promoted by a conference, the Surgeon General may invite representatives of as many State agencies, designated in accordance with section 604, to confer as he deems necessary or proper. A conference of the representatives of all such State agencies shall be called annually by the Surgeon General. Upon the application of five or more of such State agencies, it shall be the duty of the Surgeon General to call a conference of representatives of all State agencies joining in the request. 42 U.S.C. 2911

#### STATE CONTROL OF OPERATIONS

SEC. 643. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this title. 42 U.S.C. 291m

#### LOANS FOR CERTAIN HOSPITAL EXPERIMENTATION PROJECTS

SEC. 643A. (a) In order to alleviate hardship on any recipient of a grant under section 636 of this title (as in effect immediately before the enactment of the Hospital and Medical Facilities Amendments of 1964) for 42 U.S.C.  
291m-1

a project for the construction of an experimental or demonstration facility having as its specific purpose the application of novel means for the reduction of hospital costs with respect to which there has been a substantial increase in the cost of such construction (over the estimated cost of such project on the basis of which such grant was made) through no fault of such recipient, the Secretary is authorized to make a loan to such recipient not exceeding  $66\frac{2}{3}$  per centum of such increased costs, as determined by the Secretary, if the Secretary determines that such recipient is unable to obtain such an amount for such purpose from other public or private sources.

(b) Any such loan shall be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe.

(c) Each such loan shall bear interest at the rate of  $21\frac{1}{2}$  per centum per annum on the unpaid balance thereof and shall be repayable over a period determined by the Secretary to be appropriate, but not exceeding fifty years.

(d) There are hereby authorized to be appropriated \$3,500,000 to carry out the provisions of this section.

#### STUDIES AND DEMONSTRATIONS RELATING TO COORDINATED USE OF HOSPITAL FACILITIES

SEC. 644.<sup>1</sup> \* \* \*

#### DEFINITIONS

42 U.S.C. 291o

SEC. 645. For the purposes of this title—

(a) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(b) (1) The term "Federal share" with respect to any project means the proportion of the cost of such project to be paid by the Federal Government under this title.

(2) With respect to any project in any State for which a grant is made from an allotment from an appropriation under section 601, the Federal share shall be the amount determined by the State agency designated in accordance with section 604, but not more than  $66\frac{2}{3}$  per centum or the State's allotment percentage, whichever is the lower, except that, if the State's allotment percentage is lower than 50 per centum, such allotment percentage shall be deemed to be 50 per centum for purposes of this paragraph.

<sup>1</sup> Sec. 644, formerly sec. 624, was repealed by sec. 3(b) of P.L. 90-174.

(3) Prior to the approval of the first project in a State during any fiscal year the State agency designated in accordance with section 604 shall give the Secretary written notification of the maximum Federal share established pursuant to paragraph (2) for projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for projects in such State approved during such fiscal year shall not be changed after such approval.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, the Federal share shall, at the option of the State agency, be equal to the per centum provided under such paragraphs plus an incentive per centum (which when combined with the per centum provided under such paragraphs shall not exceed 90 per centum) specified by the State agency in the case of (A) projects that will provide services primarily for persons in an area determined by the Secretary to be a rural or urban poverty area, and (B) projects that offer potential for reducing health care costs through shared services among health care facilities, through interfacility cooperation, or through the construction or modernization of free-standing outpatient facilities.

(c) The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professions personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(d) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(e) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The term "outpatient facility" means a facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(1) which is operated in connection with a hospital, or



(2) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(3) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(g) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(1) medical evaluation and services, and

(2) psychological, social, or vocational evaluation and services,

under competent professional supervision, and in the case of which—

(3) the major portion of the required evaluation and services is furnished within the facility; and

(4) either (A) the facility is operated in connection with a hospital, or (B) all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(h) The term "facility for long-term care" means a facility (including an extended care facility) providing in-patient care for convalescent or chronic disease patients who require skilled nursing care and related medical services—

(1) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

(2) in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(i) The term "construction" includes construction of new buildings, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities) and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(j) The term "cost" as applied to construction or modernization means the amount found by the Surgeon General to be necessary for construction and modernization respectively, under a project, except that such term, as applied to a project for modernization of a facility for which a grant or loan is to be made from an allotment under section 602(a)(2), does not include any amount found by the Surgeon General to be attributable to expansion of the bed capacity of such facility.

(k) The term "modernization" includes alteration, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(l) The term "title," when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Surgeon General finds sufficient to assure for a period of not less than fifty years' undisturbed use and possession for the purposes of construction and operation of the project.

#### FINANCIAL STATEMENTS

SEC. 646. In the case of any facility for which a grant, loan, or loan guarantee has been made under this title, the applicant for such grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

42 U.S.C.  
2910-1

- (1) the financial operations of the facility, and
  - (2) the costs to the facility of providing health services in the facility and the charges made by the facility for providing such services,
- during the period with respect to which the statement is filed.

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TITLE VII, AS AMENDED BY PUBLIC LAW  
94-484 AND EFFECTIVE OCTOBER 1, 1977

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# TITLE VII—HEALTH RESEARCH AND TEACH- ING FACILITIES AND TRAINING OF PRO- FESSIONAL HEALTH PERSONNEL

## PART A—GENERAL PROVISIONS

### LIMITATION ON USE OF APPROPRIATIONS

SEC. 700. (a) Notwithstanding any other provisions of law, with respect to any fiscal year beginning after September 30, 1977, no funds appropriated for such fiscal year may be made available for obligation or expenditure for the purpose of carrying out any provision of this title if the sum of the amounts appropriated for such fiscal year for scholarships under subpart IV of part C (relating to National Health Service Corps scholarships) and for the purpose of making grants under section 758 (relating to scholarships for first-year students of exceptional financial need) is less than the lesser of—

(1) the sum of the amounts authorized to be appropriated for such fiscal year under such subpart and section, or

(2) 50 percent of the sum of the amounts appropriated for such fiscal year under this title.

(b) Subsection (a) shall not apply with respect to a fiscal year if less than 75 percent of the sum of the amounts authorized to be appropriated for such fiscal year under paragraphs (1), (2), and (3) of section 770 (e) (relating to capitation grants for medical, osteopathic, and dental schools) is appropriated for such fiscal year under such paragraphs.

### DEFINITIONS

SEC. 701. For purposes of this title:

(1) The terms “construction” and “cost of construction” include (A) the construction of new buildings, the expansion of existing buildings, and the acquisition, remodeling, replacement, renovation, major repair (to the extent permitted by regulations), or alteration of existing buildings, including architects’ fees, but not including the cost of acquisition of land or offsite improvements, and (B) initial equipment of new buildings and of the expanded, remodeled, repaired, renovated, or altered part of existing buildings; but such term shall not include



the construction or cost of construction of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship.

(2) The term "nonprofit school" means a school owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(3) The term "affiliated hospital or affiliated outpatient facility" means a hospital or outpatient facility, as defined in section 645, which is not owned by, but is affiliated (to the extent and in the manner determined in accordance with regulations) with, a school of medicine, osteopathy, or dentistry which meets the eligibility conditions set forth in section 721(b)(1).

(4) The terms "school of medicine", "school of dentistry", "school of osteopathy", "school of pharmacy", "school of optometry", "school of podiatry", "school of veterinary medicine", and "school of public health" mean a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatry or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, and a graduate degree in public health or an equivalent degree, and including advanced training related to such training provided by any such school.

(5) The term "teaching facilities" means areas dedicated for use by students, faculty, or administrative or maintenance personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, dining areas, student activities, or other related purposes necessary for, and appropriate to, the conduct of comprehensive programs of education. Such term includes interim facilities but does not include off-site improvements or living quarters.

(6) The term "interim facilities" means teaching facilities designed to provide teaching space on a short-term (less than ten years) basis while facilities of a more permanent nature are being planned and constructed.

(7)(A) The term "program for the training of physician assistants" means an educational program which (i) has as its objective the education of individuals who will, upon completion of their

studies in the program, be qualified to effectively provide health care under the supervision of a physician and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this paragraph) prescribe regulations for programs for the training of physician assistants. Such regulations shall, as a minimum, require that such a program—

- (i) extend for at least one academic year and consist of (I) supervised clinical practice, and
- (II) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care; and
- (ii) have an enrollment of not less than eight students.

(8)(A) The term “program for the training of expanded function dental auxiliaries” means an educational program which (i) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to assist in the provision of dental care under the supervision of a dentist and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this paragraph) prescribe regulations for programs for the training of expanded function dental auxiliaries. Such regulations shall, as a minimum, require that such a program—

- (i) extend for at least one academic year and consist of

- (I) supervised clinical practice, and

- (II) at least four months (in the aggregate) of classroom instruction.

directed toward preparing students to deliver dental care; and

- (ii) have an enrollment of not less than eight students.

(9) The term “State” includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(10) The term “Department” means the Department of Health, Education, and Welfare.

NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS  
EDUCATION

42 U.S.C. 292b

SEC. 702. (a) There is established in the Public Health Service a National Advisory Council on Health Professions Education (hereafter in this section referred to as the "Council"), consisting of the Secretary (or his delegate), who shall be Chairman of the Council, and twenty members appointed by the Secretary (without regard to the provisions of title 5 of the United States Code relating to appointments in the competitive service) from persons who because of their education, experience, or training are particularly qualified to advise the Secretary with respect to the programs of assistance authorized by parts B, C, D, E, F, and G of this title. Of the appointed members of the Council (1) twelve shall be representatives of the health professions schools assisted under programs authorized by this title, including at least six persons experienced in university administration and at least four representatives of schools of veterinary medicine, optometry, pharmacy, podiatry, and public health, and entities which may receive a grant under section 791, (2) two shall be full-time students enrolled in health professions schools, and (3) six shall be members of the general public.

(b) The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title (other than subpart II of part G thereof).

(c) The Secretary may use the services of any member or members of the Council in connection with matters related to the administration of this title (other than subpart II of part G thereof), for such periods, in addition to conference periods, as he may determine.

(d) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

ADVANCE FUNDING

42 U.S.C. 292c

SEC. 703. (a) An appropriation under an authorization of appropriations for grants or contracts under this title for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.

(b) Subsection (a) shall not apply with respect to grants under section 770 (relating to capitation).

DISCRIMINATION ON BASIS OF SEX PROHIBITED

42 U.S.C. 292d

SEC. 704. The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title



to, or for the benefit of, any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health or any training center for allied health personnel unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this title with any such school or training center unless the school or training center furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. In the case of a school of medicine which—

(1) on the date of the enactment of this sentence is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

(2) is carrying out such change in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979.

#### RECORDS AND AUDITS

SEC. 705. (a) Each entity which receives a grant, loan, 42 U.S.C. 292e loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this title, shall establish and maintain such records as the Secretary shall by regulation or order require. Such records shall include, among other things, records which completely disclose the amount and disposition of the total amount of funds received by such entity, the total cost of any project or undertaking for which funds were received, and the total amount of that portion of the total cost of any project or undertaking received by or allocated to such entity from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) Each entity which received a grant or entered into a contract under this title shall have an annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of any funds received under such grant or contract and such other funds received by or allocated to any project or undertaking for which any funds received under this Act were used, and any other funds received under this Act. Each such entity shall be responsible for providing and paying for such audit. For purposes of assuring accurate, current, and complete disclosure of the

disposition or use of the funds received, each such audit shall be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.

(c) The Secretary may specify, by regulation, the form and manner in which such records, required by subsection (a), shall be established and maintained.

(d) A student recipient of a scholarship, traineeship, loan, or loan guarantee under this title shall not be required to establish or maintain the records required under subsection (a) or provide for an audit required under subsection (b).

(e) (1) Each entity which is required to establish and maintain records or to provide for an audit under this section shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to carry out the purposes of this subsection.

#### CONTRACTS

42 U.S.C. 292f

SEC. 706. Contracts authorized by this title may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

#### DELEGATION

42 U.S.C. 292g

SEC. 707. The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices of the Department, except that the authority—

(1) to review and prepare comments on any application for a grant or contract under any such program (including any application for a continuation of such a grant or contract or for modification of such a contract) for purposes of presenting such application to the National Advisory Council on Health Professions Education, and

(2) to make such a grant, enter into such a contract, continue such a grant or contract, or modify such a contract, shall not be delegated to any administrator of, or officer in, a regional office or offices of the Department.

#### HEALTH PROFESSIONS DATA

42 U.S.C. 292h

SEC. 708. (a) The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health

professions personnel which program shall initially include data respecting all physicians and dentists in the States. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

(b)(1) In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

(2) The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location.

(3) The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a). The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurance, satisfactory to the Secretary, that—

(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a) who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

(C) such State or entity shall comply with the requirements of subsection (e).



(c) For purposes of providing the Secretary with information under this section, each school which receives financial support under section 770 shall annually report to the Secretary information, determined to be appropriate by the Secretary, respecting the students who attend such school. The Secretary may collect such additional data respecting students of the health professions as he determines to be appropriate.

(d) The Secretary shall assemble and submit to the President and Congress not later than September 1 of each year a report on the status of health professions personnel in the United States, which report shall include a description and analysis of the data collected pursuant to this section. Such report may be included as part of the report made under section 308(a)(2)(C).

(e)(1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as "personal data") for purposes of this section—

(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity, as the case may be, of providing or not providing such data;

(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

(C) assure that no use is made of personal data which use is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

(3)(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of

such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

(4) For purposes of this subsection, the term "program entity" means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

(f) In carrying out his responsibilities under this section, the Secretary shall not be subject to the provisions of chapter 35 of title 44, United States Code.

(g) The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section.

#### SHARED SCHEDULED RESIDENCY TRAINING POSITIONS

SEC. 709. (a) Any entity which—

42 U.S.C. 2921

(1) maintains a medical residency training program in family practice, general internal medicine, general pediatrics, or general obstetrics and gynecology, and

(2) receives any Federal assistance,

shall establish or restructure and maintain, to the maximum extent feasible, a reasonable number of physician training positions in such program as shared schedule positions.

(b) The Secretary shall report to Congress not later than January 1, 1979, on entities' compliance with subsection (a) and shall include in such report recommendations for legislation to ensure compliance with such subsection.

(c) For purposes of subsection (a), the term "shared schedule position" means a physician training position in a medical residency training program which is shared by two individuals and in which each individual—

(1) engages in at least two-thirds but not more than three-fourths of the total training prescribed for such position;

(2) receives for each year in such position an amount of credit for certification in the medical spe-

ciality for which the position provides training which is equal to the amount of training engaged in in such year.

(3) receives at least one-half of the salary for such position, and

(4) receives all applicable employee benefits.

#### PAYMENT UNDER GRANTS

42 U.S.C. 292j

SEC. 710. Grants made under this title may be paid (1) except for grants under section 770, in advance or by way of reimbursement, (2) at such intervals and on such conditions as the Secretary may find necessary, and (3) with appropriate adjustments on account of overpayments or underpayments previously made.

#### PAYMENT FOR TUITION AND OTHER EDUCATIONAL COSTS

42 U.S.C. 292k

SEC. 711. The Secretary shall by regulation establish criteria for determining allowable increases in tuition and other educational costs for which he shall be responsible for payment under any provision of this title after the date of enactment of the Health Professions Educational Assistance Act of 1976.

#### PART B—GRANTS AND LOAN GUARANTEES AND INTEREST SUBSIDIES FOR CONSTRUCTION OF TEACHING FACILITIES FOR MEDICAL, DENTAL, AND OTHER HEALTH PERSONNEL

#### GRANT AUTHORITY; AUTHORIZATIONS OF APPROPRIATIONS

42 U.S.C. 293

SEC. 720. (a) (1) The Secretary may make grants to assist in the construction of teaching facilities for the training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

(2) (A) The Secretary may make grants to public and nonprofit private entities to assist in the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists.

(B) For purposes of this section, the term "ambulatory, primary care teaching facilities" means areas dedicated for the training of students in the diagnosis and treatment of ambulatory patients and primarily in the specialties of family practice, general pediatrics, general internal medicine, general dentistry, and pedodontics. Such areas may include examination rooms, clinical laboratories, libraries, classrooms, offices, and other areas for clinical or research purposes necessary for, and appropriate to, the conduct of comprehensive ambulatory, primary care training of physicians and dentists in such specialties.



(b) For payments under grants under this part there is authorized to be appropriated \$40,000,000 for the fiscal year ending September 30, 1978, \$40,000,000 for the fiscal year ending September 30, 1979, and \$40,000,000 for the fiscal year ending September 30, 1980. Of the sums appropriated under this subsection for any fiscal year 50 percent of such sums shall be obligated for grants under subsection (a) (1) and 50 percent of such sums shall be obligated for grants under subsection (a) (2).

#### APPROVAL OF APPLICATIONS

SEC. 721. (a) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this part for any fiscal year must be filed.

42 U.S.C. 293a

(b) (1) To be eligible to apply for a grant to assist in the construction of any facility under this part, the applicant must be (A) a public or other nonprofit school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, and (B) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for a grant under section 720(a) (1) to construct a facility under this part, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies: (i) prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or (ii) if later, upon completion of the project for which assistance is requested and other projects (if any) under construction or planned and to be commenced within a reasonable time, or (C) any combination of schools which are described in clause (A) and which meet the requirements of clause (B).

(2) Notwithstanding paragraph (1), in the case of an affiliated hospital or affiliated outpatient facility, an application for a grant under section 720(a) (1) which is approved by the school of medicine, osteopathy, or dentistry with which the hospital or outpatient facility is affiliated and which otherwise complies with the requirements of this part may be filed by any public or other nonprofit agency qualified to file an application under section 605.

(3) In the case of any application, whether filed by a school or, in the case of an affiliated hospital or affiliated outpatient facility, by any other public or other nonprofit agency, for a grant under section 720(a)(1) to assist in the construction of a hospital or outpatient facility, as defined in section 645—

(A) if the hospital or outpatient facility is needed in connection with a new school, only that portion of the project to construct the hospital or outpatient facility which the Secretary determines to be reasonably attributable to the need of such school for the facility for teaching purposes,

(B) if the construction is in connection with expansion of the training capacity of an existing school, only that portion of the project to construct the hospital or outpatient facility which the Secretary determines to be reasonably attributable to the need of such school for the facility in order to expand its training capacity, or

(C) if the construction is in connection with renovation or rehabilitation of a hospital or outpatient facility used by an existing school, only that portion of the project which the Secretary determines to be reasonably attributable to the need of such school for the hospital or outpatient facility in order to prevent curtailment of enrollment or quality of training of the school or to meet an increase in student enrollment.

shall be regarded as the project with respect to which payments may be made under section 722.

(c) A grant under section 720(a)(1) may be made only if the application therefor is approved by the Secretary upon his determination that—

(1) the applicant meets the eligibility conditions set forth in subsection (b);

(2) the application contains or is supported by reasonable assurances that (A) the facility is intended to be used for the purposes for which the application has been made, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for construction to expand the training capacity of an existing school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the next nine school years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year

in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 771 of this Act, where applicable;

(3) (A) in the case of an application for a grant to assist in the construction of new teaching facilities, such application is for aid in the construction of a new school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, or construction which will expand the training capacity of an existing school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, or (B) in the case of an application for a grant to assist in the replacement or rehabilitation of existing teaching facilities, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or public health, which facilities either are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided (and, for purposes of this part, expansion or curtailment of capacity for continuing education shall also be considered expansion and curtailment, respectively, of training capacity) or are required to meet an increase in student enrollment;

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment;

(5) if the application requests aid in construction of a facility which is a hospital or outpatient facility, as defined in section 645, an application with respect thereto has been filed under title VI and has been denied thereunder because (A) the project has no or insufficient priority, or (B) funds are not available for the project from the State's allotments under title VI;

(6) in the case of an application for a project for the construction of a facility intended, at least in part, for the provision of health services, an opportunity has been provided for comment on the project by (A) the State agency administering or supervising the administration of the State plan approved under section 314(a),<sup>1</sup> and (B) the public or non-profit private agency or organization responsible for the plan or plans referred to in section 314(b)<sup>2</sup> and covering the area in which such project is to be lo-

<sup>1</sup> See footnote No. 1 on page 52.

<sup>2</sup> See footnote No. 1 on page 55.



cated or if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria of the Secretary, similar functions; and

(7) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (7), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c). Before approving or disapproving an application under this part, the Secretary shall secure the advice of the National Advisory Council on Health Professions Education established by section 702 (hereinafter in this part referred to as the "Council").

(d) In considering applications for grants under section 720(a) (1), the Council and the Secretary shall take into account—

(1) (A) in the case of a project for a new school or for expansion of the facilities of, or used by, an existing school (other than a project for facilities for continuing education), the relative effectiveness of the proposed facilities in expanding the capacity for the training of first-year students of medicine, dentistry, pharmacy, optometry, podiatry, veterinary medicine, or osteopathy (or, in the case of a two-year school which is expanding to a four-year school, expanding the capacity for four-year training of students in the field), or for the training of professional public health personnel, and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, available physicians, pharmacists, optometrists, podiatrists, veterinarians, dentists, or professional public health personnel, and available resources in various areas of the Nation for training such persons); or

(B) in the case of a project for replacement or rehabilitation of existing facilities of, or used by, a school (other than a project for facilities for continuing education), the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and

the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training (giving consideration to the factors mentioned above in paragraph (A)); and

(2) in the case of an applicant in a State which has in existence a State planning agency, or which participates in a regional or other interstate planning agency, described in section 728, the relationship of the application to the construction or training program which is being developed by such agency with respect to such State and, if such agency has reviewed such application, any comment thereon submitted by such agency.

(e) In the case of applications for a grant under section 720(a)(1) to aid in the construction of new schools of medicine, osteopathy, or dentistry, the Secretary shall give special consideration to those applications which contain or are reasonably supported by assurances that, because of the use that will be made of existing facilities (including Federal medical or dental facilities), the school will be able to accelerate the date on which it will begin its teaching program. In considering applications submitted for a grant under section 720(a)(1) for the cost of construction of teaching facilities for the training of physicians, the Secretary shall give special consideration to projects in States which have no such facilities.

(f)(1) An application for a grant under subsection (a) of section 720 for the fiscal year ending September 30, 1977, for an affiliated clinical facility for the establishment or expansion of a regional health professions program may be filed by any public or other nonprofit agency if the application is approved by the school of veterinary medicine, optometry, podiatry, or pharmacy with which the facility is affiliated. Only that portion of the project to construct such a facility which the Secretary determines to be reasonably attributable to the need of the regional health professions program for the facility for teaching purposes shall be regarded as the project with respect to which payments may be made under section 722.

(2) In considering applications for grants under subsection (a) of section 720 for the fiscal year ending September 30, 1977, the Secretary shall give special consideration to applications for facilities for the establishment or expansion of regional health professions programs.

(3) For the purposes of this subsection, the term "regional health professions program" refers to an interstate program (A) in which a State with an existing degree-granting school of veterinary medicine, optometry, podiatry, or pharmacy sets up a cooperative program with another State (or other States) which does not have such a school, and (B) which provides for (i)

a shared curriculum between two or more schools, or (ii) a single campus which is cooperatively financed and controlled by two or more States.

(g) (1) A grant under section 720(a) (2) may be made only if the application therefor is approved by the Secretary upon his determination that—

(A) the application contains or is supported by reasonable assurances that (i) the facility is intended to be used for purposes for which the application has been made, (ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (iii) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed;

(B) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(C) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards specified in subparagraph (C) the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(2) In making grants to entities under section 720(a) (2) the Secretary shall give special consideration to entities which have been awarded grants or received contracts under section 781, 784, or 786 (relating to area health education centers, general internal medicine and general pediatrics, and family medicine and the general practice of dentistry).

#### AMOUNT OF GRANT; PAYMENTS

42 U.S.C. 293b

SEC. 722. (a) (1) The amount of any grant under section 720(a) (1) for construction of a project shall be such amount as the Secretary determines to be appropriate after obtaining advice from the Council, except that no grant for any project may exceed 80 percent of the necessary costs of construction, as determined by the Secretary, of such project.



(2) The amount of any grant under section 720(a)(2) for construction of a facility shall be such amount as the Secretary determines to be appropriate, except that no grant for any facility may exceed the lesser of—

(A) 50 percent of the total cost of such facility,

or

(B) \$1,000,000.

(b) Upon approval of any application for a grant under this part, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(d) In the case of a project for construction of facilities which are primarily (as determined in accordance with regulations of the Secretary) for teaching purposes and for which a grant may be made under section 720(a)(1), but which also are for research purposes, or research and related purposes, in the sciences related to health or for medical library purposes (within the meaning of part J of title III), the project shall, insofar as all such purposes are involved, be regarded as a project for facilities with respect to which a grant may be made under this part.

#### RECAPTURE OF PAYMENTS

SEC. 723. (a) If, within twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of any construction for which funds have been under a grant under section 720(a)(1)—

42 U.S.C. 293c

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit school or, in case the facility was an affiliated hospital or outpatient facility, the applicant or other owner of the facility ceases to be a public or other nonprofit

agency qualified to file an application under section 605, or

(2) the facility shall cease to be used for the teaching purposes (and the other purposes permitted under section 722) for which it was constructed, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so, or

(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(b) If, within 20 years after completion of any construction for which funds have been paid under a grant under section 729(a)(2)—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit entity;

(2) the facility shall cease to be used for the training purposes for which such funds were provided, unless the Secretary determines, in accordance with regulations which he shall promulgate, that there is a significant public purpose and good cause for releasing the applicant or other owner from the obligation to do so; or

(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

#### REGULATIONS

42 U.S.C. 293g

SEC. 724. (a) The Secretary, after consultation with the Council, shall prescribe general regulations for this part covering the eligibility of entities, the order of priority in approving applications, the terms and conditions for approving applications, determinations of the amounts of grants, and minimum standards of construction and equipment for various types of entities.

(b) The Secretary may make, such other regulations as he finds necessary to carry out the provisions of this part.

#### TECHNICAL ASSISTANCE

SEC. 725. The Secretary may provide technical assistance (1) to applicants under this part and other public or nonprofit private schools, agencies, organizations, and institutions, and combinations thereof, in designing and planning the construction of any facility for which financial assistance may be provided under this part, and (2) to State or interstate planning agencies established to plan programs for relieving shortages of training capacity for health personnel. 42 U.S.C. 293h

#### LOAN GUARANTEES AND INTEREST SUBSIDIES

SEC. 726. (a) To assist nonprofit private entities to carry out approved construction projects for teaching facilities, the Secretary may, during the period beginning July 1, 1971, and ending with the close of September 30, 1980, guarantee (in accordance with this section and subject to subsection (f)) to any non-Federal lender or the Federal Financing Bank which makes a loan to such an entity for such a project payment when due of the principal of and interest on such loan if such entity is eligible (as determined under regulations of the Secretary) for a grant under this part for such project. The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee may, except under special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 percent of the cost of the construction of the project. 42 U.S.C. 293i

(b) In the case of any nonprofit private entity which is eligible (as determined under regulations of the Secretary) for a grant under this part to assist it in carrying out an approved construction project for teaching facilities after June 30, 1971, and to whom a loan has been made by a non-Federal lender or the Federal Financing Bank to assist it in carrying out such project, the Secretary, during the period beginning July 1, 1971, and ending with the close of September 30, 1980, may, subject to subsection (f), pay to the holder of such loan (and for and on behalf of the entity which received such loan) amounts sufficient to reduce by not to exceed 3 per centum per annum the net effective interest rate otherwise payable on such loan.

(c) A loan guarantee or interest subsidy payment may be made under this section only upon an application (submitted in such manner and containing such information



as the Secretary may by regulations require) approved by the Secretary. The Secretary may not approve an application for a loan guarantee or interest subsidy payment unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee, unless he determines that the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(d) (1) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) To the extent permitted by paragraph (3), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(3) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(e) There is established in the Treasury a loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts. (1) to enable him to discharge his responsibilities under guarantees issued by him under this section, and (2) for interest subsidy payments authorized by this section. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund; except that the amount appropriated for interest subsidy payments may not exceed \$8,000,000 in the fiscal year ending June 30, 1972, \$16,000,000 in the fiscal year ending June 30, 1973, \$24,000,000 in the fiscal year ending June 30, 1974 or in any of the next three fiscal years, \$2,000,000 in the fiscal year ending September 30, 1978, \$3,000,000 in the fiscal

year ending September 30, 1979, and \$3,000,000 in the fiscal year ending September 30, 1980. There shall also be deposited in the fund amounts received by the Secretary or other property or assets derived by him from his operations under this section, including any money derived from the sale of assets. If at any time the sums in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this section or to make interest subsidy payments authorized by this section, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(f)(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(2) In any fiscal year no loan guarantee may be made under subsection (a) and no agreement to make interest subsidy payments may be entered into under subsection (b) if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

(A) the principal of the loans guaranteed under subsection (a) in such fiscal year, and

(B) the principal of the loans for which no guarantee has been made under subsection (a) and with respect to which an agreement to make interest sub-

sidy payments is entered into under subsection (b) in such fiscal year, to exceed the amount of grant funds obligated under this part in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this part in such fiscal year equals the sums appropriated for such fiscal year under section 720.

(g) The Secretary, with the consent of the Secretary of Housing and Urban Development, may obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this section as will promote efficiency and economy thereof.

## PART C—STUDENT ASSISTANCE

### Subpart I—Federal Program of Insured Loans to Graduate Students in Health Professions Schools

#### STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

42 U.S.C. 294 SEC. 727. (a) The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in (and certain former students of) eligible institutions.

(b) For the purpose of carrying out this subpart there are authorized to be appropriated (1) for the fiscal year ending September 30, 1978, to the student loan insurance fund (established by section 734) the sum of \$1,500,000 and of such further sums, if any, as may become necessary for the adequacy of student loan insurance fund and for the purpose of administering this subpart; and (2) for fiscal years thereafter such sums as may be necessary for the purpose of administering this subpart. Sums appropriated under this subsection shall remain available until expended.

#### SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

42 U.S.C. 294a SEC. 728. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 737) to borrowers covered by Federal loan insurance under this subpart shall not exceed \$500,000,000 for the fiscal year ending September 30, 1978; \$510,000,000 for the fiscal year ending September 30, 1979; and \$520,000,000 for the fiscal year ending September 30, 1980. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program or to obtain a loan under section 731(a)(1)(B) to pay interest on such prior loans; but



no insurance may be granted for any loan made or installment paid after September 30, 1982.

(b) The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(c) The Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965, is authorized to make advances on the security of, purchase, service, sell, or otherwise deal in loans which are insured by the Secretary under this subpart.

#### LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

SEC. 729. (a) The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed \$10,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and \$7,500 in the case of a student enrolled in a school of pharmacy. The aggregate insured unpaid principal amount for all such insured loans made to any borrower shall not any time exceed \$50,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and \$37,500 in the case of a borrower who is or was a student enrolled in a school of pharmacy. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit. 42 U.S.C. 294b

(b) The insurance liability on any loan insured by the Secretary under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 733 or 738.

#### SOURCES OF FUNDS

SEC. 730. Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans. 42 U.S.C. 294c

ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF  
FEDERALLY INSURED LOANS

42 U.S.C. 294d

SEC. 731. (a) A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

(1) made to—

(A) a student who—

(i) (I) has been accepted for enrollment at an eligible institution, or (II) in the case of a student attending an eligible institution, is in good standing at that institution, as determined by the institution;

(ii) is or will be a full-time student (as defined in section 770(c)(2)) at the eligible institution;

(iii) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 739(b)(2) to receive a loan under this subpart;

(iv) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by such students;

(v) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or non-profit program provided or assisted under part B of title IV of the Higher Education Act of 1965; and

(vi) in the case of a pharmacy student, has satisfactorily completed three years of training; or

(B) an individual who—

(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

(ii) is in a period during which, pursuant to paragraph (2), the principal amount of such previous loan need not be paid; and

(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 15 years beginning not earlier than 9 months nor later than 12 months after the date on which the borrower ceases to be a participant in an accredited internship or residency program or (if he was not a participant in such a program) ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution, except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed 23 years from the date of execution of the note or written agreement evidencing it, and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the costs of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution (or at an institution defined by section 435(b) of the Higher Education Act of 1965, (ii) not in excess of three years during which the borrower is a participant in an accredited internship or residency program, (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (v) not in excess of three years during which the borrower is a member of the National Health Service Corps, or (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer



Service Act of 1973, and any such period shall not be included in determining the 15-year period or the 23-year period provided in clause (B) above:

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)), on a national, regional, or other appropriate basis, which interest shall be compounded semi-annually and payable in installments over the period of the loan, except that the note or other written agreement may provide that payment of any interest otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal, may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal;

(E) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(F) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan.

(b) No maximum rate of interest prescribed and defined by the Secretary for the purpose of paragraph (2)(D) of subsection (a) may exceed 12 percent per annum on the unpaid principal balance of the loan.

(c) The total of the payments by a borrower during any year or any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart shall not be less than the annual interest on the outstanding principal.

(d) No provision of any law of the United States (other than subsections (a)(2)(D) and (b) of this section) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.

CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE  
DATE OF INSURANCE

42 U.S.C. 294e

SEC. 732. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible borrower which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance is made to a student described in section 731(a)(1). Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 728, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United

States and promoting the objectives of this subpart, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a borrower a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 728, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

(c) The Secretary shall, pursuant to regulations, charge for insurance on each loan under this subpart a premium in an amount not to exceed 2 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or become totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 733(a).

(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned by such lender, subject to regulation by the Secretary, only to (1) another eligible lender, or (2) the Student Loan Marketing Association.

(e) The consolidation of the obligations of two or more federally insured loans obtained by a borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary



may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

DEFAULT OF BORROWER UNDER FEDERAL LOAN INSURANCE  
PROGRAM

SEC. 733. (a) Upon default by the borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, if appropriate, commencement of a suit) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. 42 U.S.C. 294f

(b) Upon payment by the Secretary of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured.

(c) Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

(d) Nothing in this section or in this subpart shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making of loans under the provisions of this subpart and from exercising a substantial effort in the collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that the lender has failed to exercise such care and diligence, to exercise such substantial efforts, to make the reports and statements required under section 732(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender from obtaining further Federal insurance on loans granted pursuant to this subpart until

he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence, exercise substantial effort, or comply with such requirements, as the case may be.

(e) As used in this section—

(1) the term “insurance beneficiary” means the insured or its authorized assignee in accordance with section 732(d);

(2) the term “amount of the loss” means, with respect to a loan, unpaid balance of the principal amount and interest on such loan; and

(3) the term “default” includes only such defaults as have existed for (A) 120 days in the case of a loan which is repayable in monthly installments, or (B) 180 days in the case of a loan which is repayable in less frequent installments.

(f) The Secretary may, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans.

(g) A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date, as specified in section 731(a)(2)(B), when repayment of such loan is required.

#### STUDENT LOAN INSURANCE FUND

42 U.S.C. 294g

SEC. 734. (a) There is hereby established a student loan insurance fund (hereinafter in this section referred to as the “fund”) which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by him under this subpart. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this subpart shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default

of any loan insured by the Secretary under this subpart, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to included any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

#### POWERS AND RESPONSIBILITIES

SEC. 735. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this subpart, the Secretary may—

42 U.S.C. 294h

(1) prescribe such regulations as may be necessary to carry out the purposes of this subpart;

(2) sue and be sued in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be constructed to except litigation arising out of activities under this subpart from the application of sections 517 and 547 of title 28 of the United States Code;



(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this subpart may be modified by the Secretary if he determines that modification is necessary to protect the financial interest of the United States;

(4) subject to the specific limitations in the subpart, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this subpart; and

(5) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

(b) The Secretary shall, with respect to the financial operations arising by reason of this subpart—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

(2) maintain with respect to insurance under this subpart an integral set of accounts.

(c) (1) The Secretary may enter into a written contract with a borrower under which the Secretary agrees to assume the obligation of paying an amount, not to exceed \$10,000 in any 12-month period, toward the principal and interest due on any loan made to the borrower and insured under this subpart and the borrower agrees to serve, either as a member of the National Health Service Corps or in private practice pursuant to section 753 (as determined by the Secretary), in a health manpower shortage area (designated under section 332) which is described in clauses (A) and (B) of section 753(a) (2) for a continuous period of (A) not less than 12 months for each 12-month period the Secretary assumes such obligation under the agreement, or (B) 24 months, whichever is greater.

(2) Except as provided in paragraphs (3) and (4), if an individual, who has entered into a written contract under paragraph (1), for any reason breaches his contract obligations with respect to serving in a health manpower shortage area for the period specified in the contract, the United States shall be entitled to recover dam-

ages from such individual in an amount determined in accordance with the formula

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which "A" is the amount the United States is entitled to recover; " $\phi$ " is the sum of the amounts paid by the Secretary under the contract to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the individual's period of obligated service; and "s" is the number of months of such period served by him in accordance with the contract. Any amount of damages which the United States is entitled to recover under this paragraph shall be paid to the United States not later than one year after the date of the breach of such contract obligations.

(3) The United States shall not be entitled to recover any damages from an individual under paragraph (2) upon the death of the individual.

(4) The Secretary shall by regulation provide for the waiver or suspension of any obligation of service or payment of any or all of the damages to which the United States is entitled under paragraph (2) whenever the Secretary determines that compliance by an individual with the contract is impossible or would involve extreme hardship to the individual and that recovery of such damages with respect to the individual would be unconscionable.

#### PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

SEC. 736. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Administrator of the National Credit Union Administration, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans. 42 U.S.C. 2941

#### DEFINITIONS

SEC. 737. As used in this subpart:

42 U.S.C. 294J

(1) The term "eligible institution" means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, or public health within the United States that (A) received a grant, or the Secretary determines met the requirements for receipt of a grant, under section 770 for the preceding fiscal year, or (B) was not eligible to receive such a grant for such fiscal year solely because it did not

meet the applicable requirements of section 771(b)(3).

(2) The term "school of medicine, osteopathy, or dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health" means any school legally authorized within a State to train members of the professions indicated and accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for insurance for a loan under this subpart, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.

(3) The term "eligible lender" means an eligible institution, an agency or instrumentality of a State, a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Secretary for this purpose.

(4) The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

#### REPAYMENT BY THE SECRETARY OF LOANS OF DECEASED OR DISABLED BORROWERS

42 U.S.C. 294k

SEC. 738. If a borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the fund established under section 734.

#### ELIGIBILITY OF INSTITUTIONS

42 U.S.C. 294l

SEC. 739. (a) Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

(1) a fiscal audit of an eligible institution with regard to any funds obtained from a borrower who has received a loan insured under this subpart;



(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart; and

(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this subpart.

(b) The Secretary shall by regulation—

(1) require an eligible institution to record, and make available to a lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart; and

(2) in the case of an eligible institution which is a school of medicine, osteopathy, or dentistry, require such institution to establish procedures to insure that no more than 50 percent of the students in each class in the institution are authorized to have loans insured under this subpart.

## Subpart II—Students Loans

### LOAN AGREEMENTS

SEC. 740. (a) The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or other nonprofit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 721(b)(1)(B).

42 U.S.C. 294

(b) Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund of (A) the Federal capital contributions to the fund, (B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 741(j), and (E) any other earnings of the fund;

(3) provide that the fund shall be used only for loans to students of the school in accordance with the

agreement and for costs of collection of such loans and interest thereon;

(4) provide that loans may be made from such funds only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of podiatry or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree;

(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 741 under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and

(6) contain such other provisions as are necessary to protect the financial interests of the United States.

#### LOAN PROVISIONS

42 U.S.C. 294a

SEC. 741. (a) Loans from a student loan fund (established under an agreement with a school under section 740) may not exceed for any student for each school year (or its equivalent) the sum of—

(1) the cost of tuition for such year at such school, and

(2) \$2,500.

(b) Any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of podiatry or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree.

(c) Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine, excluding from such ten-year period all periods (up to three years) of (1) active duty performed by the borrower as a member of a uniformed service, or (2) service as a volunteer under the Peace Corps Act; and periods of advanced professional training including internships and residences.

(d) The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon

the death of the borrower, or if the Secretary determines that he has become permanently, and totally disabled.

(e) Such loans shall bear interest, on the unpaid balance of the loan, computed only for periods for which the loan is repayable, at the rate of 7 percent per year.

(f) (1) In the case of any individual—

(A) who has received a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, doctor of optometry or an equivalent degree, bachelor of science in pharmacy or an equivalent degree, or doctor of podiatry or an equivalent degree;

(B) who (i) obtained one or more loans from a loan fund established under this subpart, or (ii) obtained, under a written loan agreement entered into before October 12, 1976, any other educational loan for his costs at a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry; and

(C) who enters into an agreement with the Secretary to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in an area in a State in a health manpower shortage area designated under section 332;

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of that individual, on the principal of and interest on any loan of his described in subparagraph (B) of this paragraph which is outstanding on the date he begins the practice specified in the agreement described in subparagraph (C) of this paragraph.

(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

(A) Upon completion by the individual for whom the payments are to be made of the first year of the practice specified in the agreement he entered into with the Secretary under paragraph (1), the Secretary shall pay 30 per centum of the principal of, and the interest on each loan of such individual described in paragraph (1) (B) which is outstanding on the date he began such practice.

(B) Upon completion by that individual of the second year of such practice, the Secretary shall pay another 30 per centum of the principal of, and the interest on each such loan.

(C) Upon completion by that individual of a third year of such practice, the Secretary shall pay another 25 per centum of the principal of, and the interest on each such loan.



No payment may be made under this paragraph with respect to a loan described in paragraph (1) (B) (ii) unless the person on whose behalf the payment is to be made has submitted to the Secretary a certified copy of the agreement under which such loan was made. In any year the amount of payments that may be made under this paragraph with respect to such a loan may not exceed \$10,000 and the total amount of payments that may be made under this paragraph with respect to such a loan may not exceed \$50,000.

(3) Notwithstanding the requirement of completion of practice specified in paragraph (2), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by paragraph (1) or (2) (C), and that he will continue to be so engaged for the period required (in the absence of this paragraph) to entitle him to have made the payments provided by this subsection for such period; except that not more than 85 per centum of the principal of any such loan shall be paid pursuant to this paragraph.

(4) A borrower who fails to fulfill an agreement with the Secretary entered into under paragraph (1) shall be liable to reimburse the Secretary for any payments made pursuant to paragraph (2) (A) or paragraph (3) in consideration of such agreement.

(5) Notwithstanding the amendment made by section 105(b)(1) of the Comprehensive Health Manpower Training Act of 1971 to this subsection—

(A) any person who obtained one or more loans from a loan fund established under this part, who before the date of the enactment of such Act became eligible for cancellation of all or part of such loans (including accrued interest) under this subsection (as in effect on the day before such date), and who on such date was not engaged in a practice for which loan cancellation was authorized under this subsection (as so in effect), may at any time elect to receive such cancellation in accordance with this subsection (as so in effect); and

(B) in the case of any person who obtained one or more loans from a loan fund established under this part and who on such date was engaged in a practice for which cancellation of all or part of such loans (including accrued interest) was authorized under this subsection (as so in effect), this subsection (as so in effect) shall continue to apply to such person

for purposes of providing such loan cancellation until he terminates such practice.

Nothing in this paragraph shall be construed to prevent any person from entering into an agreement for loan cancellation under this subsection (as amended by section 105(b)(1) of such Act).

(g) Loans shall be made under this subpart without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

(h) No note or other evidence of a loan made under this subpart may be transferred or assigned by the school making the loan except that, if the borrowers transfer to another school participating in the program under this subpart, such note or other evidence of a loan may be transferred to such other school.

(i) Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(j) Subject to regulations of the Secretary, a school may assess a charge with respect to a loan made under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c) or cancellation of part or all of the loan under subsection (f), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed \$1 for the first month or part of a month by which such installment or evidence is late and \$2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(k) A school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than \$15 per month.

(l) Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a health professions student to enable him to

study medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

(1) failed to complete such studies leading to his first professional degree;

(2) is in exceptionally needy circumstances;

(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

(4) has not resumed, or cannot reasonably be expected to resume, the study of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, within two years following the date upon which he terminated such studies.

#### AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 294b

SEC. 742. (a) For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 740, there are authorized to be appropriated \$26,000,000 for the fiscal year ending September 30, 1978, \$27,000,000 for the fiscal year ending September 30, 1979, and \$28,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and each of the two succeeding fiscal years, there are authorized to be appropriated to the Secretary such sums as may be necessary to enable students who have received a loan under this part for any academic year ending before October 1, 1980, to continue or complete their education.

(b)(1) The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions.

(2) If the total of the amounts requested for any fiscal year in such applications exceeds the amounts appropriated under this section for that fiscal year, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amounts appropriated as the number of students estimated by the Secretary to be enrolled in such school during such fiscal year bears to the estimated total number of students in all such schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallocated in accordance with clause (B) of such sentence among



schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

(3) Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this subpart.

(4) Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

#### DISTRIBUTION OF ASSETS FROM LOAN FUNDS

SEC. 743. (a) After September 30, 1983, and not later than December 31, 1983, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 740(b) by each school as follows:

42 U.S.C. 294c

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of September 30, 1983, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 740(b) (2)

(A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 740(b) (2) (B).

(2) The remainder of such balance shall be paid to the school.

(b) After December 31, 1983, each school with which the Secretary has made an agreement under this subpart shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after September 30, 1983, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement as was determined for the Secretary under subsection (a).

#### ADMINISTRATIVE PROVISIONS

SEC. 744. The Secretary may agree to modifications of agreements or loans made under this subpart, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.

42 U.S.C. 294r

### Subpart III—Traineeships for Students in Schools Public Health and Other Graduate Programs

#### PUBLIC HEALTH TRAINEESHIPS

42 U.S.C. 294e

SEC. 748. (a) The Secretary may make grants to—

- (1) accredited schools of public health, and
- (2) other public or nonprofit institutions which provide graduate or specialized training in public health and which are not eligible to receive a grant under section 749,

to provide traineeships.

(b) (1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

(2) Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least the percent specified in paragraph (4) of the funds received under this section shall go to individuals who—

(A) (i) have previously received a postbaccalaureate degree, or

(ii) have three years of work experience in health services; and

(B) are pursuing a course of study in—

- (i) biostatistics or epidemiology,
- (ii) health administration, health planning, or health policy analysis and planning;
- (iii) environmental or occupational health,
- (iv) dietetics or nutrition, or
- (v) preventive medicine or dentistry.

(4) The percent referred to in paragraph (3) is—

(A) 45 percent for grants made for the fiscal year ending September 30, 1978,

(B) 55 percent for grants made for the fiscal year ending September 30, 1979, and

(C) 65 percent for grants made for the fiscal year ending September 30, 1980, and in succeeding fiscal years.

(c) For payments under grants under subsection (a), there are authorized to be appropriated \$7,500,000 for the

fiscal year ending September 30, 1978; \$9,000,000 for the fiscal year ending September 30, 1979; and \$10,000,000 for the fiscal year ending September 30, 1980.

#### TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS

SEC. 749. (a) The Secretary may make grants to public or nonprofit private educational entities, including graduate schools of social work but excluding accredited schools of public health, which offer a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Commissioner of Education and which meets such other quality standards as the Secretary by regulation may prescribe, for traineeships to train students enrolled in such a program. 42 U.S.C. 294a

(b) (1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

(2) Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this section shall go to individuals who (A) have previously received a postbaccalaureate degree, or (B) have three years of work experience in health services.

(c) For payments under grants under subsection (a), there are authorized to be appropriated \$2,500,000 for the fiscal year ending September 30, 1978; \$2,500,000 for the fiscal year ending September 30, 1979; and \$2,500,000 for the fiscal year ending September 30, 1980.

#### Subpart IV—National Health Service Corps Scholarships

#### NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. 751. (a) The Secretary shall establish the National Health Service Corps Scholarship Program (hereinafter in this subpart referred to as the "Scholarship Program") to assure an adequate supply of trained physi- 42 U.S.C. 294t



cians, dentists, and nurses for the National Health Service Corps (hereinafter in this subpart referred to as the "Corps") and, if needed by the Corps, podiatrists, optometrists, pharmacists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 822), and other health professionals.

(b) To be eligible to participate in the Scholarship Program, an individual must—

(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession;

(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

(3) submit an application to participate in the Scholarship Program; and

(4) sign and submit to the Secretary, at the time of submittal of such application, a written contract (described in subsection (f)) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

(c) In disseminating application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Secretary shall include with such forms—

(1) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 754 in the case of the individual's breach of the contract; and

(2) such other information as may be necessary for the individual to understand the individual's prospective participation in the Scholarship Program and service in the Corps.

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Scholarship Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the

Scholarship Program on a date sufficiently early to insure that such individuals have adequate time to carefully review and evaluate such forms and information.

(d) In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program or under section 758; and

(2) second, to applications made (and contracts submitted)—

(A) for the school year beginning in calendar year 1978, by individuals who are entering their first, second, or third year of study in a course of study or program described in subsection (b)

(1) (B) in such school year;

(B) for the school year beginning in calendar year 1979, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b) (1) (B) in such school year; and

(C) for each school year thereafter, by individuals who are entering their first year of study in a course of study or program described in subsection (b) (1) (B) in such school year.

(e) (1) An individual becomes a participant in the Scholarship Program only upon the Secretary's approval of the individual's application submitted under subsection (b) (3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b) (4).

(2) The Secretary shall provide written notice to an individual promptly upon the Secretary's approving, under paragraph (1), of the individual's participation in the Scholarship Program.

(f) The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

(1) an agreement that—

(A) subject to paragraph (2), the Secretary agrees (i) to provide the individual with a scholarship (described in subsection (g)) in each such school year or years for a period of years (not to exceed four school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b) (1) (B), and (ii) to accept (subject to the availability of appropriated funds for carrying out subpart II of part C of title III) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

(B) subject to paragraph (2), the individual agrees—

(i) to accept provision of such a scholarship to the individual;

(ii) to maintain enrollment in a course of study described in subsection (b) (1) (B) until the individual completes the course of study;

(iii) while enrolled in such course of study, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study); and

(iv) to serve for a time period (hereinafter in the subpart referred to as the "period of obligated service") equal to—

(I) one year for each school year for which the individual was provided a scholarship under the Scholarship Program, or

(II) two years,

whichever is greater, in a health manpower shortage area (designated under section 332) to which he is assigned by the Secretary as a member of the Corps, or as otherwise provided in this subpart;

(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subpart and to carry out the purposes of subpart II of part C of title III;

(3) a statement of the damages to which the United States is entitled, under section 754, for the individual's breach of the contract; and

(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

(g) (1) A scholarship provided to a student for a school year under a written contract under the Scholarship Program or under section 758 (relating to scholarships for first-year students of exceptional financial need), shall consist of—

(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student of the amount (except as provided in section 711) of—

(i) the tuition of the student in such school year; and

(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

(B) payment to the student of a stipend of \$400 per month (adjusted in accordance with paragraph



(3)) for each of the 12 consecutive months beginning with the first month of such school year.

(2) The Secretary may contract with an educational institution, in which a participant in the Scholarship Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A). Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

(3) The amount of the monthly stipend, specified in paragraph (1)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded to the next highest multiple of \$1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5303 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

(i) The Secretary shall report to Congress on December 1 of each year—

(1) the number, and type of health profession training, of students receiving scholarships under the Scholarship Program;

(2) the educational institutions at which such students are receiving their training;

(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

(4) the amount of tuition paid in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

(j) The administrative unit which administers section 770 shall—

(1) participate in the development of regulations, funding priorities, and application forms, and

(2) be consulted by, and may make recommendations to, the Secretary in the review of applications for scholarships and grants,

with respect to the Scholarship Program.

## OBLIGATED SERVICE

42 U.S.C. 294u

SEC. 752. (a) Except as provided in section 753, each individual who has entered into a written contract with the Secretary under section 751 shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract.

(b) (1) The Secretary shall notify each individual required to provide service under the Scholarship Program, not later than 60 days before the date described in paragraph (5), of the opportunity of such individual to serve in the full-time clinical practice of his profession either as a commissioned officer in the Regular or Reserve Corps of the Service or as a civilian member of the Corps. The Secretary shall include in such notice sufficient information regarding the advantages and disadvantages to each alternative to enable an individual to make a decision on an informed basis.

(2) To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than 30 days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer.

(3) If an individual who has notified the Secretary under paragraph (2) qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps and of the Service and shall designate the individual as a member of the Corps. If an individual who has notified the Secretary under paragraph (2) does not so qualify, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual in accordance with paragraph (4).

(4) Except as provided in paragraph (3) and in section 753, the Secretary shall appoint each individual, as soon as possible after the date described in paragraph (5), to serve in the full-time clinical practice of his profession as a civilian member of the Corps.

(5) (A) With respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of the period of time (not to exceed three years) required for the individual to complete an internship, residency, or other advanced clinical training. No such period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

(B) With respect to an individual receiving a degree from an institution other than a school of medicine, osteopathy, or dentistry, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes his academic training leading to such degree.

(c) An individual shall be considered to have begun serving a period of obligated service—

(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the Service or as a member of the Corps, or

(2) in the case of an individual who has entered into an agreement with the Secretary under section 753, on the date specified in such agreement, whichever is earlier.

(d) The Secretary shall assign individuals performing obligated service in accordance with a written contract under the Scholarship Program to health manpower shortage areas in accordance with subpart II of part C of title III. If the Secretary determines that there is no need in a health manpower shortage area (designated under section 332) for a member of the profession in which an individual is obligated to provide service under a written contract, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

(e) Notwithstanding any other provision of this title, if the Secretary determines that an individual who is or has been a participant in the Scholarship Program demonstrates exceptional promise for medical research, the Secretary may permit such individual to perform his service obligation under the National Research Service Award program established under section 472.

#### PRIVATE PRACTICE

SEC. 753. (a) The Secretary shall release an individual from all or part of his service obligation under section 752(a) if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

42 U.S.C. 294v

(1) in the case of an individual who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of his application for such a release, in the health manpower shortage area in which such individual is serving on such date; or



(2) in the case of any other individual, in a health manpower shortage area (designated under section 332) which (A) has a priority for the assignment of Corps members under section 333(c), and (B) has a sufficient financial base to sustain such private practice and to provide the individual with income of not less than the income of members of the Corps. In the case of an individual described in paragraph (1), the Secretary shall release the individual from his service obligation under this subsection only if the Secretary determines that the area in which the individual is serving meets the requirement of clause (B) of paragraph (2).

(b) The written agreement described in subsection (a) shall—

(1) provide that during the period of private practice by an individual pursuant to the agreement—

(A) any person who receives health services provided by the individual in connection with such practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee; and

(B) the individual in providing health services in connection with such practice shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of such Act; and

(2) contain such additional provisions as the Secretary may require to carry out the purposes of this section.

For purposes of paragraph (1)(A), the Secretary shall by regulation prescribe the method for determining a person's ability to pay a charge for health services and the method of determining the amount (if any) to be charged such person based on such ability.

#### BREACH OF SCHOLARSHIP CONTRACT

42 U.S.C. 291w

SEC. 754. (a) An individual (other than an individual described in subsection (b)) who has entered into a written contract with the Secretary under section 751 and who fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, shall, in addition to any service or other obligation or

liability under the contract, be liable to the United States for the amount of \$1,500 as liquidated damages.

(b) An individual who has entered into a written contract with the Secretary under section 751 and who—

(1) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(2) is dismissed from such educational institution for disciplinary reasons, or

(3) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(c) If an individual breaches his written contract by failing (for any reason) either to begin such individual's service obligation in accordance with section 752 or 753 or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which "A" is the amount the United States is entitled to recover, " $\phi$ " is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the individual's period of obligated service; and "s" is the number of months of such period served by him in accordance with section 752 or a written agreement under section 753. Any amount of damages which the United States is entitled to recover under this subsection shall, within the one year period beginning on the date of the breach of the written contract, be paid to the United States.

(d)(1) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the waiver or suspension of any obligation of service or payment by an individual under the Scholarship Program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment of such damages is required.

SPECIAL GRANTS FOR FORMER CORPS MEMBERS TO ENTER  
PRIVATE PRACTICE

42 U.S.C. 294x

SEC. 755. (a) The Secretary may make one grant to an individual (other than an individual who has entered into an agreement under section 753)—

(1) who has completed his period of obligated service in the Corps, and

(2) who has agreed in writing—

(A) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 332 and described in paragraphs (1) and (2) of section 753(a)) for a period (beginning not later than one year after the date he completed his period of obligated service in the Corps) of not less than one year;

(B) to conduct such practice in accordance with the provisions of section 753(b)(1); and

(C) to such additional conditions as the Secretary may require to carry out the purposes of this section;

to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such grant may not be used for the purchase or construction of any building.

(b) The amount of the grant under subsection (a) to an individual shall be—

(1) \$12,500, if the individual agrees to practice his profession in accordance with the agreement for a period of at least one year, but less than two years; or

(2) \$25,000 if the individual agrees to practice his profession in accordance with the agreement for a period of at least two years.

(c) The Secretary may not make a grant under this section unless an application therefor has been submitted to, and approved by, the Secretary.

(d) If the Secretary determines that an individual has breached a written agreement entered into under subsection (a), he shall, as soon as practicable after making



such determination, notify the individual of such determination. If within 120 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual an amount determined under section 754(c), except that in applying the formula contained in such section " $\phi$ " shall be the sum of the amount of the grant made under subsection (a) to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, " $t$ " shall be the number of months that such individual agreed to practice his profession under such agreement, and " $s$ " shall be the number of months that such individual practices his profession in accordance with such agreement.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 756. (a) There are authorized to be appropriated 42 U.S.C. 294y for scholarships under this subpart \$75,000,000 for the fiscal year ending September 30, 1978, \$140,000,000 for the fiscal year ending September 30, 1979, and \$200,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and for each of the two succeeding fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make scholarship awards to students who have entered into written contracts under the Scholarship Program before October 1, 1980.

(b) Of the sums appropriated under this section (1) 90 percent shall be obligated for scholarships for medical, osteopathic, and dental students, and (2) 10 percent of such 90 percent shall be obligated for scholarships for dental students.

#### INDIAN HEALTH SCHOLARSHIP PROGRAM

SEC. 757. (a) In addition to the sums authorized to be appropriated under section 756(a) to carry out the Scholarship Program, there are authorized to be appropriated 42 U.S.C. 294y-1 \$5,450,000 for the fiscal year ending September 30, 1978, \$6,300,000 for the fiscal year ending September 30, 1979, \$7,200,000 for the fiscal year ending September 30, 1980, and for each of the succeeding four fiscal years such sums as may be specifically authorized by an Act enacted after the date of enactment of this section, to provide scholarships under the Scholarship Program to provide physicians, osteopaths, dentists, veterinarians,

nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated "Indian Health Scholarships" and shall be made in accordance with this subpart, except, as provided in subsection (b).

(b)(1) The Secretary, acting through the Indian Health Service, shall determine the individuals who shall receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional services by specific health professions.

(2) The active duty service obligation prescribed in the written contract entered into under this subpart shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

(c) For purposes of this section, the term "Indians" has the same meaning given that term by subsection (c) of section 4 of the Indian Health Care Improvement Act and includes individuals described in clauses (1) through (4) of that subsection.

#### Subpart V—Other Scholarships

##### SCHOLARSHIPS FOR FIRST-YEAR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

42 U.S.C. 294z

SEC. 758. (a) The Secretary shall make grants to a public or nonprofit school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, or veterinary medicine which is accredited as provided in section 721 (b)(1)(B), for scholarships to be awarded by the school to full-time students thereof who are of exceptional financial need and who are in their first year of study at such school.

(b)(1) Scholarships may be awarded by a school from a grant under subsection (a) only to individuals who have been accepted by it for enrollment as full-time students in their first year of study at such school.

(2) A scholarship awarded to a student for a school year under a grant made under subsection (a) shall be the scholarship described in section 751(g).

(3) For purposes of this section, the term "first year of study" means, with respect to a student of a school other than a school of pharmacy, the student's first year of postbaccalaureate study at such school.

(c) The Secretary shall distribute grants under this section among all schools of the health professions, but shall give priority in distributing such grants to schools of medicine, osteopathy, and dentistry.

(d) For the purpose of making grants under this section, there is authorized to be appropriated \$16,000,000 for the fiscal year ending September 30, 1978, \$17,000,000 for the fiscal year ending September 30, 1979, and \$18,000,000 for the fiscal year ending September 30, 1980.

#### LISTER HILL SCHOLARSHIP PROGRAM

SEC. 759. (a) The Secretary annually shall make grants to at least 10 individuals (to be known as Lister Hill scholars) for scholarships of up to \$8,000 per year for up to four years of medical school if such individuals agree to enter into the family practice of medicine in a health manpower shortage area in accordance with this section. Grants made under this section shall be made only from funds appropriated under subsection (b).

42 U.S.C. 294aa

(b) There are authorized to be appropriated to carry out the purposes of this section \$80,000 for the fiscal year ending September 30, 1977, \$160,000 for the fiscal year ending September 30, 1978, \$240,000 for the fiscal year ending September 30, 1979, and \$320,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to October 1, 1980) have received such a grant under this section during such succeeding fiscal year.

#### PART D<sup>1</sup>—GRANTS TO PROVIDE PROFESSIONAL AND TECHNICAL TRAINING IN THE FIELD OF FAMILY MEDICINE

##### DECLARATION OF PURPOSE

SEC. 761. It is the purpose of this part to provide for the making of grants to assist—

- (1) public and private nonprofit medical schools—
  - (A) to operate, as an integral part of their medical education program, separate and dis-

<sup>1</sup> Sections 761 through the first 768 were enacted by the Family Practice of Medicine Act (S. 3418, 91st Congress) which the United States Court of Appeals for the District of Columbia Circuit held in *Kennedy v. Sampson* was not validly vetoed by the President.



tinct departments devoted to providing teaching and instruction (including continuing education) in all phases of family practice;

(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a medical school or as separate outpatient or similar facility;

(C) to operate, or participate in, special training program for paramedical personnel in the field of family medicine; and

(D) to operate, or participate in, special training programs to teach and train medical personnel to head departments of family practice or otherwise teach family practice in medical schools; and

(2) public and private nonprofit hospitals which provide training programs for medical students, interns, or residents—

(A) to operate, as an integral part of their medical training programs, special professional training programs (including continuing education) in the field of family medicine for medical students, interns, residents, or practicing physicians;

(B) to construct such facilities as may be appropriate to carry out a program of training in the field of family medicine whether as a part of a hospital or as a separate outpatient or similar facility;

(C) to provide financial assistance (in the form of scholarships, fellowships, or stipends) to interns, residents, or other medical personnel who are in need thereof, who are participants in a program of such hospital which provides special training (accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education) in the field of family medicine, and who plan to specialize or work in the practice of family medicine; and

(D) to operate, or participate in, special training programs for paramedical personnel in the field of family medicine.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 762. (a) For the purpose of making grants to carry out the purposes of this part, there are authorized to be appropriated \$50,000,000 for the fiscal year ending June 30, 1971, \$75,000,000 for the fiscal year ending June 30, 1972, and \$100,000,000 for the fiscal year ending June 30, 1973.

(b) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for the purpose for which appropriated until the close of the fiscal year which immediately follows such year.

#### GRANTS BY SECRETARY

SEC. 763. (a) From the sums appropriated pursuant to section 762, the Secretary is authorized to make grants, in accordance with the provisions of this part, to carry out the purposes of section 761.

(b) No grant shall be made under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall have prescribed by regulations which have been promulgated by him and published in the Federal Register not later than six months after the date of enactment of this part.

(c) Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

(d) In the case of any application for a grant any part of which is to be used for major construction or remodeling of any facility, the Secretary shall not approve the part of the grant which is to be so used unless the recipient of such grant enters into appropriate arrangements with the Secretary which will equitably protect the financial interests of the United States in the event such facility ceases to be used for the purpose for which such grant or part thereof was made prior to the expiration of the twenty-year period which commences on the date such construction or remodeling is completed.

(e) Grants made under this part shall be used only for the purpose for which made and may be paid in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

#### ELIGIBILITY FOR GRANTS

SEC. 764. (a) In order for any medical school to be eligible for a grant under this part, such school—

(1) must be a public or other nonprofit school of medicine; and

(2) must be accredited as a school of medicine by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirements of this clause shall be deemed to be satisfied, if (A) in the case of a school of medicine which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation,

the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(b) In order for any hospital to be eligible for a grant under this part, such hospital—

(1) must be a public or private nonprofit hospital; and

(2) must conduct or be prepared to conduct in connection with its other activities (whether or not as an affiliate of a school of medicine) one or more programs of medical training for medical students, interns, or residents, which is accredited by a recognized body or bodies, approved for such purpose by the Commissioner of Education.

#### APPROVAL OF GRANTS

SEC. 765. (a) The Secretary, upon the recommendation of the Advisory Council on Family Medicine, is authorized to make grants under this part upon the determination that—

(1) the applicant meets the eligibility requirements set forth in section 764;

(2) the applicant has complied with the requirements of section 763;

(3) the grant is to be used for one or more of the purposes set forth in section 761;

(4) it contains such information as the Secretary may require to make the determinations required of him under this section and such assurances as he may find necessary to carry out the purposes of this part;

(5) it provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require (pursuant to regulations which shall have been promulgated by him and published in the Federal Register) to assure proper disbursement of and accounting for all Federal funds paid to the applicant under this part; and

(6) the application contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C.



276a-276a5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 65 Stat. 1267), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(b) The Secretary shall not approve any grant to—

(1) a school of medicine to establish or operate a separate department devoted to the teaching of family medicine unless the Secretary is satisfied that—

(A) such department is (or will be, when established) of equal standing with the other departments within such school which are devoted to the teaching of other medical specialty disciplines; and

(B) such department will, in terms of the subjects offered and the type and quality of instruction provided, be designed to prepare students thereof to meet the standards established for specialists in the specialty of family practice by a recognized body approved by the Commissioner of Education; or

(2) a hospital to establish or operate a special program for medical students, interns, or residents in the field of family medicine unless the Secretary is satisfied that such program will, in terms of the type of training provided, be designed to prepare participants therein to meet the standards established for specialists in the field of family medicine by a recognized body approved by the Commissioner of Education.

(c) The Secretary shall not approve any grant under this part unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

#### PLANNING AND DEVELOPMENTAL GRANTS

SEC. 766. (a) For the purpose of assisting medical schools and hospitals (referred to in section 761) to plan or develop programs or projects for the purpose of carrying out one or more of the purposes set forth in such section, the Secretary is authorized for any fiscal year (prior to the fiscal year which ends June 30, 1973) to make planning and developmental grants in such amounts and subject to such conditions as the Secretary may determine to be proper to carry out the purposes of this section.

(b) From the amounts appropriated in any fiscal year

(prior to the fiscal year ending June 30, 1973) pursuant to section 762(a), the Secretary may utilize such amounts as he deems necessary (but not in excess of \$8,000,000 for any fiscal year) to make the planning and developmental grants authorized by subsection (a).

#### ADVISORY COUNCIL ON FAMILY MEDICINE

SEC. 767. (a) The Secretary shall appoint an Advisory Council on Family Medicine (hereinafter in this section referred to as the "Council"). The Council shall consist of twelve members, four of whom shall be physicians engaged in the practice of family medicine, four of whom shall be physicians engaged in the teaching of family medicine, three of whom shall be representatives of the general public, and one of whom shall, at the time of his appointment, be an intern in family medicine. Members of the Council shall be individuals who are not otherwise in the regular full-time employ of the United States.

(b)(1) Except as provided in paragraph (2), each member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, three at the end of the second year, three at the end of the third year, and three at the end of the fourth year, after the date of appointment.

(2) The member of the Council appointed as an intern in family medicine shall serve for one year.

(3) A member of the Council shall not be eligible to serve continuously for more than two terms.

(c) Members of the Council shall be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Members of the Council, while attending meetings or conferences thereof or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service, employed intermittently.

(d) The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters arising with respect to, the administration of this part. The Council shall consider all applications for grants under this part and shall make recommendations to the Secretary with respect to approval of applications for, and of the amount of, grants under this part.

## DEFINITIONS

SEC. 768. For purposes of this part—

(1) the term “nonprofit” as applied to any hospital or school of medicine means a school of medicine or hospital which is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(2) the term “family medicine” means those certain principles and techniques and that certain body of medical, scientific, administrative, and other knowledge and training, which especially equip and prepare a physician to engage in the practice of family medicine;

(3) the term “practice of family medicine” and the term “practice”, when used in connection with the term “family medicine”, mean the practice of medicine by a physician (licensed to practice medicine and surgery by the State in which he practices his profession) who specializes in providing to families (and members thereof) comprehensive, continuing, professional care and treatment of the type necessary or appropriate for their general health maintenance; and

(4) the term “construction” includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings and initial equipment of any such buildings, including architects’ fees, but excluding the cost of acquisition of lands or offsite improvements.

GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS  
IN FAMILY MEDICINE

SEC. 767. There are authorized to be appropriated 42 U.S.C.  
295e-1  
\$25,000,000 for the fiscal year ending June 30, 1972, \$35,000,000 for the fiscal year ending June 30, 1973, \$40,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$39,000,000 for the fiscal year ending September 30, 1977, for grants by the Secretary to any public or nonprofit private hospital—

(1) to plan, develop, and operate, or participate in, an approved professional training program (including continuing education and approved residency programs in family practice) in the field of family medicine for medical students, interns, residents, or practicing physicians;

(2) to provide financial assistance (in the form of traineeships and fellowships) to medical students, interns, residents, practicing physicians, or other



medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine; and

(3) to plan, develop, and operate, or participate in, other approved training programs in the field of family medicine.

GRANTS FOR SUPPORT OF POSTGRADUATE TRAINING PROGRAMS  
FOR PHYSICIANS AND DENTISTS

42 U.S.C.  
295e-2

SEC. 768. (a) There are authorized to be appropriated \$7,500,000 for the fiscal year ending June 30, 1973, and \$15,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for grants under subsection (b).

(b)(1) The Secretary shall make annual grants in accordance with this section to—

(A) public or nonprofit private schools of medicine, osteopathy, or dentistry, which are accredited as provided in section 721(b)(1), and which have approved applications, and

(B) public or nonprofit private hospitals which are not affiliated with an accredited school of medicine, osteopathy, or dentistry, and which have approved applications,

to assist in meeting the educational costs of the first three years of full-time approved graduate training programs in the area of primary care or in any other area of health care (designated under subsection (c)(3)(B)) in which there is a shortage of qualified physicians or dentists.

(2) The amount of a grant under this subsection for any fiscal year to any school or hospital shall be equal to \$3,000 for each physician or dentist enrolled in a graduate training program (A) described in paragraph (1) of this subsection, and (B) in the case of a grant to a school, conducted in clinical facilities of such schools or with which such school has a written agreement of affiliation, or, in the case of a grant to a hospital, conducted in such hospital; except that if the total of the grants to be made under this subsection for any fiscal year to schools and hospitals with approved applications exceeds the amounts appropriated under subsection (a) for such grants, the amount of the grant for that fiscal year to each such school or hospital shall be an amount which bears the same ratio to the amount determined for the school or hospital for that fiscal year under the preceding sentence as the total of the amounts appropriated under subsection (a) for that year bears to the amount required to make grants to each school in accordance with such sentence.

(3) For purposes of paragraph (2), the Secretary shall—

(A) in the case of a grant in the fiscal year ending June 30, 1973, count only the number of first-year physicians and dentists enrolled in graduate training programs described in paragraph (1), and

(B) in the case of a grant in the fiscal year ending June 30, 1974, or in the next 2 fiscal years count only the number of first- and second-year physicians and dentists enrolled in graduate training programs described in paragraph (1).

(c) (1) The Secretary may from time to time set dates (not earlier than the fiscal year preceding the year for which a grant is sought) by which applicants for grants under subsection (b) for any fiscal year must be filed.

(2) A grant under subsection (b) may be made only if the application therefor—

(A) is approved by the Secretary upon his determination that the applicant meets the eligibility conditions set forth in paragraph (1) of such subsection;

(B) contains a specific program or programs which such applicant has undertaken to encourage physicians and dentists to enroll in graduate training programs described in paragraph (1) of this subsection;

(C) contains or is supported by assurances that such applicant will increase the number of graduate training positions open to physicians and dentists in such graduate training programs;

(D) provides for such fiscal control and accounting procedures, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for any such grant;

(E) contains a statement in such detail as the Secretary may determine necessary, describing the manner in which any grant made under subsection (b) will be applied to meet the educational costs of the graduate training program for which the grant is made, including any payments from a grant proposed to be made by an applicant which is a school to any clinical facility which participates in such training program under a written agreement of affiliation with the applicant and which shares in the payment of the educational costs of such program; and

(F) contains such additional information as the Secretary may require to make the determinations required of him under this section, and such assurances as he may find necessary.

## (3) The Secretary—

(A) shall not approve or disapprove any application for a grant under subsection (b) except after consultation with the National Advisory Council on Health Professions Education;

(B) shall define in consultation with such Council, those health care fields included within the term “primary health care” and shall designate any other areas of health care in which there is a shortage of qualified physicians and dentists; and

(C) shall, on an annual basis, establish guidelines specifying such absolute or percentage increases in the numbers of physicians or dentists receiving full-time graduate training which any applicant receiving a grant under subsection (b) as may be required to meet as a condition of such a grant.

GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS  
FOR HEALTH PROFESSIONS TEACHING PERSONNEL

42 U.S.C. 295e-3

SEC. 769. (a) There are authorized to be appropriated \$10,000,000 for the fiscal year ending June 30, 1972, \$15,000,000 for the fiscal year ending June 30, 1973, and \$20,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for grants under this section.

(b) The Secretary may make grants under this section to public and nonprofits private schools of medicine, dentistry, osteopathy, podiatry, optometry, pharmacy, and veterinary medicine (as such schools are defined in section 724) for training (at such schools or elsewhere), and traineeships and fellowships for the advanced training, of individuals to enable them to teach, or improve their teaching skills, in the medical, dental, osteopathic, podiatric, optometric, pharmaceutical, or veterinary medicine fields.

(c) Not less than 75 per centum of any grant under this section to any school shall be used by the school for traineeships and fellowships.

GRANTS FOR COMPUTER TECHNOLOGY HEALTH CARE  
DEMONSTRATION PROGRAMS

42 U.S.C. 295e-4

SEC. 769A. There are authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1972, \$10,000,000 for the fiscal year ending June 30, 1973, and \$15,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977, for grants by the Secretary to public or nonprofit private schools, agencies, organizations, or institutions, and combinations thereof, to—



(1) plan and develop free-standing or university-based computer laboratories which would establish computer-based systems, including compatible languages, standard terminologies, communication networks, and decisionmaking strategies, to enable the utilization of modern computer technologies by physicians and other health personnel in the provision of health services and in the processing of biomedical information relating to the provision of such services; and

(2) research through computer technology the functions performed by physicians to determine which functions could be appropriately transferred and performed by other appropriately trained personnel.

#### GENERAL PROVISIONS

SEC. 769B. (a) No grant may be made under sections 767, 769, and 769A unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. 42 U.S.C. 295e-5

(b) Payments by recipients of grants under sections 767 and 769A for (1) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees; and (2) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

(c) The amount of any grant under section 767, 769, or 769A shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

#### PART E—GRANTS TO IMPROVE THE QUALITY OF SCHOOLS OF MEDICINE, OSTEOPATHY, DENTISTRY, PUBLIC HEALTH, VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY

##### CAPITATION GRANTS

SEC. 770. (a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved ap- 42 U.S.C. 295f

plication shall be computed for each fiscal year as follows:

(1) Each school of medicine, osteopathy, and dentistry shall receive—

(A) for the fiscal year ending September 30, 1978, \$2,000 for each full-time student enrolled in such school in the school year beginning in such fiscal year,

(B) for the fiscal year ending September 30, 1979, \$2,050 for each full-time student enrolled in such school in the school year beginning in such fiscal year, and

(C) for the fiscal year ending September 30, 1980, \$2,100 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

(2) (A) Each school of public health shall receive for the fiscal year ending September 30, 1978, and for each of the next two fiscal years an amount equal to the product of—

(i) \$1,400, and

(ii) the sum of (I) the number of full-time students enrolled in such school in the school year beginning in such fiscal year, and (II) the number of full-time equivalents of part-time students, determined pursuant to subparagraph (B), for such school for such school year.

(B) For purposes of subparagraph (A) the number of full-time equivalents of part-time students for a school of public health for any school year is a number equal to—

(i) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

(ii) the greater of (I) the number of credit hours of instruction which a full-time student of such school was required to take in such year, or (II) 9,

rounded to the next highest whole number.

(3) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of veterinary medicine shall receive \$1,450 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

(4) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of optometry shall receive \$765 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

(5) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of pharmacy (other than a school of pharmacy with a course of study of more than four years) shall receive \$695 for each full-time student enrolled in such school in the school year beginning in such fiscal year. Each school of pharmacy with a course of study of more than four years shall receive \$695 for each full-time student enrolled in the last four years of such school. For purposes of section 771, a student enrolled in the first year of the last four years of such school shall be considered a first-year student.

(6) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of podiatry shall receive \$965 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

(b) **APPORTIONMENT OF APPROPRIATIONS.**—Notwithstanding subsection (a), if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to schools of either medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the total of the amounts appropriated for such category of schools under the appropriate paragraph of subsection (e) for such grants, the amount of a school's grant with respect to which such excess exists shall for such fiscal year be an amount which bears the same ratio to the amount determined for the school under subsection (a) as the total of the amounts appropriated for that year under the appropriate paragraph of subsection (e) for grants to schools of the same category as such school bears to the amount required to make grants in accordance with subsection (a) to each of the schools of that category with approved applications.

(c) **ENROLLMENT DETERMINATIONS.**—

(1) For purposes of this section, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

(2) For purposes of this section, the term "full-time students" (whether such term is used by itself



or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor or master of science in pharmacy or an equivalent degree, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree, or to a graduate degree in public health or equivalent degree. In the case of a training program of a school designed to permit the students enrolled in such program to complete, within six years after completing secondary school, the requirements for degree of doctor of medicine, doctor of dentistry or an equivalent degree, or doctor of osteopathy, the term "full-time students" shall only include students enrolled on a full-time basis in the last four years of such program and for purposes of section 771, students enrolled in the first of the last four years of such program shall be considered as first-year students.

(d) APPLICATIONS FOR NEW SCHOOLS.—In the case of a new school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subsection (a) shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

(e) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) There are authorized to be appropriated \$124,182,000 for the fiscal year ending September 30, 1978, \$131,683,800 for the fiscal year ending September 30, 1979, and \$139,400,100 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of medicine.

(2) There are authorized to be appropriated \$8,680,000 for the fiscal year ending September 30, 1978, \$9,337,750 for the fiscal year ending September 30, 1979, and \$10,159,800 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of osteopathy.

(3) There are authorized to be appropriated \$43,798,000 for the fiscal year ending September 30, 1978, \$45,409,550 for the fiscal year ending September 30, 1979, and \$46,909,800 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of dentistry.

(4) There are authorized to be appropriated \$9,739,800 for the fiscal year ending September 30, 1978, \$10,462,200 for the fiscal year ending September 30, 1979, and \$11,060,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of public health.

(5) There are authorized to be appropriated \$10,219,600 for the fiscal year ending September 30, 1978, \$10,548,750 for the fiscal year ending September 30, 1979, and \$10,705,350 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of veterinary medicine.

(6) There are authorized to be appropriated \$3,204,585 for the fiscal year ending September 30, 1978, \$3,272,670 for the fiscal year ending September 30, 1979, and \$3,366,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of optometry.

(7) There are authorized to be appropriated \$16,989,970 for the fiscal year ending September 30, 1978, \$17,110,205 for the fiscal year ending September 30, 1979, and \$17,368,050 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of pharmacy.

(8) There are authorized to be appropriated \$2,267,750 for the fiscal year ending September 30, 1978, \$2,270,645 for the fiscal year ending September 30, 1979, and \$2,285,120 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of podiatry.

#### ELIGIBILITY FOR CAPITATION GRANTS

SEC. 771. (a) IN GENERAL.—The Secretary shall not make a grant under section 770 to any school in a fiscal year beginning after September 30, 1977, unless the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that—

42 U.S.C. 295f-1

(1) the first-year enrollment of full-time students in the school in the school year beginning in the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year or in the school year beginning in the fiscal year ending September 30, 1976, whichever is greater; and

(2) the applicant will expend in carrying out its functions as a school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal

sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

(b) (1) **MEDICAL SCHOOLS.**—To be eligible for a grant under section 770 each school of medicine shall, in addition to the requirements of subsection (a), meet the applicable requirements of paragraphs (2) and (3).

(2) (A) (i) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1977, in direct or affiliated medical residency training programs in primary care is at least 35 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1978, a school of medicine shall have on July 15, 1978, at least 35 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

(ii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1978, in direct or affiliated medical residency training programs in primary care is at least 40 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1979, a school of medicine shall have on July 15, 1979, at least 40 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

(iii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15 of any year (beginning with 1979) in direct or affiliated medical residency training programs in primary care is at least 50 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending on September 30 of the following year, a school of medicine shall have on July 15 of such following year at least 50 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

(B) The Secretary shall determine what percent of all the positions filled, as of July 15, 1977, and July 15 of each subsequent year, in all direct or affiliated medical



residency training programs are filled positions in such programs in primary care. In determining the number of such positions in primary care on July 15, 1977, or on July 15 of a subsequent year, the Secretary shall deduct from such number a number equal to the number of individuals who were in a first year position in any direct or affiliated medical residency training program in primary care as of July 15 of the previous year and who on the date for which the determination is to be made were not in any direct or affiliated medical residency training program in primary care. Each determination under this subparagraph shall, not later than 45 days after the date for which the determination is made, be published in the Federal Register and reported in writing to each school of medicine in the States and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate.

(C) In determining if a school of medicine meets an applicable requirement of clause (i), (ii), or (iii) of subparagraph (A) for a fiscal year, the number of filled first year positions in direct or affiliated medical residency training programs of such school in primary care on July 15 in such fiscal year shall be reduced by the number of individuals who were in a first year position in a direct or affiliated medical residency training program of such school in primary care on July 15 in the previous fiscal year and who on July 15 in the fiscal year to which the requirement applies were not in a direct or affiliated medical residency training program of any school in primary care. Each determination, with respect to a school, under this subparagraph shall, not later than 45 days after the date on which the determination is made, be reported in writing to such school and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate.

(D) The requirement under subparagraph (A) that a school of medicine have a particular percent of its filled first-year positions in its direct or affiliated medical residency training programs in primary care on a date in order to be eligible for a grant under section 770 shall be waived by the Secretary if he determines that (i) such school has made a good faith effort to comply with such requirement, and (ii) such school has at least 98 percent of such percent of such positions in primary care on such date.

(E) The Secretary shall not make any grant under section 770 to a school of medicine for any fiscal year if the Secretary, after providing notice and opportunity for a hearing, determines that such school—

(i) terminated or failed to renew an affiliation with medical residency training program for the purpose of meeting the requirements of this paragraph, and

(ii) after such a termination or failure to renew, provided support for such medical residency training program (including any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program).

(F) For purposes of this paragraph:

(i) The term "direct or affiliated medical residency training program" means a medical residency training program with which a school of medicine is affiliated or has a similar arrangement (including any arrangement which provides for any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program), as determined under regulations of the Secretary, or which is primarily conducted in facilities owned by a school of medicine.

(ii) The term "primary care" means general internal medicine, family medicine, or general pediatrics.

(iii) The term "medical residency training program" means a program which trains graduates of schools of medicine and schools of osteopathy in a medical specialty and which provides the graduate education required by the appropriate specialty board for certification in such specialty. Such term does not include a residency training program in an osteopathic hospital.

(3) (A) Except as provided under subparagraph (D), a school of medicine may not receive a grant under section 770 to be made in the fiscal year ending September 30, 1978, unless its application for such grant contains or is supported by assurances satisfactory to the Secretary that such school will increase its enrollment of full-time, third-year students as prescribed by subparagraph (B).

(B) The enrollment increase referred to in subparagraph (A) is an enrollment increase in a school of medicine—

(i) which is to occur in school year 1978–1979,

(ii) in the number of full-time, third-year students over the number of full-time, second-year stu-

dents who successfully completed the second-year program of such school in the preceding school year and enrolled in the third-year class of such school, and

(iii) which is not less than 5 per centum of the number of—

(I) full-time, first-year students enrolled in such school in school year 1977–1978, or

(II) full-time, third-year students enrolled in such school in school year 1977–1978,

whichever is less.

(C) In determining the number of full-time, third-year students enrolled in a school in a school year in which an increase is required by subparagraph (B) (i)—

(i) full-time, third-year students of such school who were not second-year students in such school and—

(I) who are not citizens of the United States,

(II) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) applies,

(III) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) does not apply because of subparagraph (D) and for whom a position in the third-year class of such school was available in such school year,

(IV) who first enrolled after October 12, 1976, in a school of medicine not in a State,

(V) who were previously enrolled in a school of dentistry or a school of osteopathy, or

(VI) who were previously enrolled in a school of medicine which is in a State and which is not accredited by the body or bodies approved for such purpose by the Commissioner of Education,

shall not be counted; and

(ii) full-time, second-year students enrolled in such year who are citizens of the United States and who were first enrolled before October 12, 1976, in a school of medicine not in a State shall be counted as third-year students.

(D) The Secretary may waive (in whole or in part) the requirement of subparagraph (A) for a school of medicine—

(i) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation;



(ii) upon a finding that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, an increase in its enrollment of third-year students to meet such requirement will prevent it from providing high quality clinical training for each of its third year students; or

(iii) if the Secretary determines that such school has made a good faith effort to meet the requirement of subparagraph (A) but has been unable to meet such requirement solely because there is an insufficient number of students who, under this paragraph, are eligible to be counted in determining if the school has met such requirement.

The requirement of subparagraph (A) does not apply to the application of a school of medicine for a grant under section 770 if in school year 1977-1978 such school had an enrollment of full-time, first-year students which exceeded its enrollment in such school year of full-time, third-year students by at least 25 per centum.

(E) A school of medicine which did not receive a grant under section 770 because it did not comply with the applicable requirements of this paragraph shall not be eligible to receive a grant under such section to be made in the fiscal year ending September 30, 1979, or in the next fiscal year.

(c) SCHOOLS OF OSTEOPATHY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of osteopathy shall, in addition to the requirements of subsection (a), submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings, in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made, either in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of osteopathy which has joined with the applicant in the submission of the plan) or in areas in which medically underserved populations reside.

(2) More than one applicant may join in the submission of a plan described in paragraph (1). No plan may be approved by the Secretary unless—

(A) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received at least 6 weeks (at least 3 of which shall be consecutive) of clinical training in an area which is geographically remote from the main site of the training facilities of such school or

in which medically underserved populations reside;

(B) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in osteopathic education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

(C) the plan contains a specific program for the appointing, as members of the faculty of the school or schools submitting the plan, of practicing physicians to serve as instructors in the training program in such areas; and

(D) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

(d) SCHOOLS OF DENTISTRY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of dentistry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and of paragraph (3) or (4).

(2) In the case of a school of dentistry which in school year 1976–1977 had at least six filled, first-year positions in dental specialty programs, in the school year beginning in the fiscal year ending September 30, 1978, and in each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, at least 70 percent of such a school's filled first-year positions in dental specialty programs which are in excess of the number of filled first-year positions in its programs in the school year beginning in the fiscal year ending September 30, 1977, shall be first-year positions in dental specialty programs in general dentistry or periodontics.

(3) A school of dentistry shall maintain an enrollment of full-time first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 10 percent of such number if such number was not more than 100, or

(B) by 5 percent of such number, or 10 students, whichever is greater, if such number was more than 100.

(4) (A) A school of dentistry shall submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings, in the school year beginning in the fiscal year for which the grant is made and in each

school year thereafter beginning in a fiscal year for which such a grant is made, either in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of dentistry which has joined with the applicant in the submission of the plan) or in areas in which medically underserved populations reside.

(B) More than one applicant may join in the submission of a plan described in subparagraph (A). No plan may be approved by the Secretary unless—

(i) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received at least 6 weeks (in the aggregate) of clinical training in an area which is geographically remote from the main site of the training facilities of such school or in which medically underserved populations reside;

(ii) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in dental education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

(iii) the plan contains a specific program for the appointing, as members of the faculty of the school or schools submitting the plan, of practicing dentists to serve as instructors in the training program in such areas; and

(iv) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

(e) SCHOOLS OF PUBLIC HEALTH.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of public health shall, in addition to the requirements of subsection (a), maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 5 percent of such number if such number was not more than 100, or

(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.



(2) The Secretary may waive (in whole or in part) application to a school of public health of the requirement of paragraph (1) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.

(f) SCHOOLS OF VETERINARY MEDICINE.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of veterinary medicine shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and paragraph (3) or (4).

(2) An application of a school of veterinary medicine for a grant under section 770 shall contain or be supported by assurances satisfactory to the Secretary that the clinical training of the school shall emphasize predominantly care to food-producing animals or to fibre-producing animals, or to both types of animals.

(3) A school of veterinary medicine shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 5 percent of such number if such number was not more than 100, or

(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

(4) An application of a school of veterinary medicine shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 770 at least 30 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of veterinary medicine.

(g) SCHOOLS OF OPTOMETRY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of optometry shall, in addition to the requirements of subsection (a), meet the requirement of paragraph (2) or (3).

(2) A school of optometry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students

enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 5 percent of such number if such number was not more than 100, or

(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

(3) An application of a school of optometry shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 770 at least 25 percent (or 50 percent if the applicant is a nonprofit private school of optometry) of the first-year enrollment of full-time students in such school will be comprised of students who are residents of States in which there are no accredited schools of optometry.

(h) SCHOOLS OF PODIATRY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of podiatry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) or (3).

(2) A school of podiatry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

(A) by 5 percent of such number if such number was not more than 100, or

(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

(3) An application of a school of podiatry shall contain or be supported by assurances satisfactory to the Secretary that, for the school year beginning in the fiscal year for which a grant is made under section 770, at least 40 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of podiatry.

(i) SCHOOLS OF PHARMACY.—To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of pharmacy's application for such a grant shall, in addition to the assurances required by subsection (a), contain or be supported by assurances that each student who is enrolled in the school will before graduation undergo a training program in clinical pharmacy, which shall include (1) an inpatient and outpatient clerkship experience in a hospital, extended care facility, or other clinical setting; (2) interaction with

physicians and other health professionals; (3) training in the counseling of patients with regard to the appropriate use of and reactions to drugs; and (4) training in drug information retrieval and analysis in the context of actual patient problems.

APPLICATIONS FOR CAPITATION, START-UP, SPECIAL PROJECT,  
AND FINANCIAL DISTRESS GRANTS

SEC. 772. (a) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under section 770 for any fiscal year must be filed. 42 U.S.C. 2951-5

(b) To be eligible for a grant under section 770 or subsection (a) or (b) of section 788, the applicant must (1) be a public or other nonprofit school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, and (2) be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that the requirement of this clause shall be deemed to be satisfied if (A) in the case of a school which by reason of no, or an insufficient, period of operation is not, at the time of application for a grant under this part, eligible for such accreditation, the Commissioner finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the Secretary makes a final determination as to approval of the application, or (B) in the case of any other school, the Commissioner finds after such consultation and after consultation with the Secretary that there is reasonable ground to expect that, with the aid of a grant (or grants) under those sections, having regard for the purposes of the grant for which application is made, such school will meet such accreditation standards within a reasonable time.

(c) The Secretary shall not approve or disapprove any application for a grant under section 770 except after consultation with the National Advisory Council on Health Professions Education (established by section 725).

(d) A grant under section 770 may be made only if the application therefor—

(1) is approved by the Secretary upon his determination that the applicant (and its application) meet the applicable eligibility conditions prescribed by section 771 or subsection (b) of this section;

(2) contains such additional information as the Secretary may require to make the determinations



required of him under the section authorizing the grant for which the application is made and such assurances as he may find necessary to carry out the purposes of such section; and

(3) provides for such fiscal control and accounting procedures and reports, including the use of such standard procedures for the recording and reporting of financial information, as the Secretary may prescribe, and access to the records of the applicant, as the Secretary may require to enable him to determine the costs to the applicant of its program for the education or training of students.

(e) For purposes of administering the requirements of section 771, a reference to a year class of students is a reference to students enrolled in that class for the first time.

## PART F—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

### PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE

42 U.S.C. 295g

SEC. 780. (a) The Secretary may make grants to schools of medicine and osteopathy to meet the costs of projects to establish and maintain academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine.

(b) The Secretary may not approve an application for a grant under subsection (a) unless such application contains—

(1) assurance satisfactory to the Secretary that the academic administrative unit with respect to which the application is made will (A) be comparable to academic administrative units for other major clinical specialties offered by the applicant, (B) be responsible for directing an amount of the curriculum for each member of the student body engaged in an education program leading to the awarding of the degree of doctor of medicine or doctor of osteopathy which amount is determined by the Secretary to be comparable to the amount of curriculum required for other major clinical specialties in the school, (C) have a number of full-time faculty which is determined by the Secretary to be sufficient to conduct the instruction required by clause (B) and to be comparable to the number of faculty assigned to other major clinical specialties in the school, and (D) have control over a three-year approved or provisionally approved residency training program in family practice or its equivalent as determined by the Secretary which shall have the capacity to enroll a total of no less than twelve interns or residents per year; and

(2) such other information as the Secretary shall by regulation prescribe.

(c) There are authorized to be appropriated \$10,000,000 for the fiscal year ending September 30, 1978, \$15,000,000 for the fiscal year ending September 30, 1979, and \$20,000,000 for the fiscal year ending September 30, 1980, for payments under grants under subsection (a).

#### AREA HEALTH EDUCATION CENTERS

SEC. 781. (a) For the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and for the purpose of encouraging the regionalization of educational responsibilities of health professions schools, the Secretary may enter into contracts for projects to assist in the planning, development, and operation of area health education center programs. 42 U.S.C.  
295g-1

(b) An area health education center program shall be a cooperative program of one or more medical or osteopathic schools and one or more nonprofit private or public area health education centers.

(c) Each medical or osteopathic school participating in an area health education center program shall—

(1) provide for the active participation in such program by individuals who are associated with the administration of the school and each of the departments (or specialties if the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

(2) provide that no less than 10 percent of all undergraduate medical or osteopathic clinical education of the school will be conducted in an area health education center and at locations under the sponsorship of such center;

(3) be responsible for, or conduct, a program for the training of physician assistants (as defined in section 701(7)) or nurse practitioners (as defined in section 822) which gives special consideration to the enrollment of individuals from, or intending to practice in, the area served by the area health education center of the program; and

(4) provide for the active participation of at least 2 schools or programs of other health professions (including a school of dentistry if there is one affiliated with the university with which the school of medicine or osteopathy is affiliated) in the educational program conducted in the area served by the area health education center.

(d) (1) Each area health education center shall specifically designate a geographic area in which it will serve, or shall specifically designate a medically underserved

population it will serve (such area or population with respect to such center in this section referred to as "the area served by the center"), which area or population is in a location remote from the main site of the teaching facilities of the school or schools which participate in the program with such center.

(2) Each area health education center shall—

(A) provide for or conduct training in health education services, including education in nutrition evaluation and counseling, in the area served by the center;

(B) assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet such needs;

(C) provide for or conduct a medical residency training program in family medicine, general internal medicine, or general pediatrics in which no fewer than six individuals are enrolled in first-year positions in such program;

(D) provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals (including allied health personnel) practicing within the area served by the center;

(E) provide continuing medical education and other support services to the National Health Service Corps members serving within the area served by the center;

(F) encourage the utilization of nurse practitioners and physician assistants within the area served by the center and the recruitment of individuals for training in such professions at the participating medical or osteopathic schools;

(G) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the area served by the center; and

(H) have an advisory board of which at least 75 percent of the members shall be individuals, including both health service providers and consumers, from the area served by the center.

Any area health education center which is participating in an area health education center program in which another center has a medical residency training program described in subparagraph (C) need not provide for or conduct such a medical residency training program.

(e) The Secretary is authorized to enter into contracts with medical and osteopathic schools, which have cooperative arrangements with area health education centers, for the planning, development, and operation of area health education center programs. In entering into contracts under this section the Secretary shall assure that—



(1) at least 75 percent of the total funds provided to any school shall be expended by an area health education center program in the area health education centers;

(2) not more than 75 percent of the total operating funds of a program in any year shall be provided by the Secretary; and

(3) no contract shall provide funds solely for the planning or development of such a program for a period of longer than two years.

(f) For the purpose of this section the term "area health education center program" means a program which is organized and operated in a manner described in subsection (b) and which is capable, as determined by the Secretary, of performing each of the functions described in subsection (d) (2). The Secretary shall, by regulation, establish standards and criteria for the requirements of this section.

(g) There are authorized to be appropriated to carry out the provisions of this section \$20,000,000 for the fiscal year ending September 30, 1978, \$30,000,000 for the fiscal year ending September 30, 1979, and \$40,000,000 for the fiscal year ending September 30, 1980.

#### EDUCATION OF RETURNING UNITED STATES STUDENTS FROM FOREIGN MEDICAL SCHOOLS

SEC. 782. (a) The Secretary may make grants to schools of medicine and osteopathy in the States to plan, develop, and operate programs—

42 U.S.C.  
295g-2

(1) to train United States citizens who were students in medical schools in foreign countries before the date of enactment of the Health Professions Educational Assistance Act of 1976 to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing; or

(2) to train United States citizens who have transferred from medical schools in foreign countries in which they were enrolled before the date of enactment of the Health Professions Educational Assistance Act of 1976, and who have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing.

The costs for which a grant under this subsection may be made may include the costs of identifying deficiencies in the medical school education of the United States citizens who were students in foreign medical schools, the development of materials and methodology for correcting such deficiencies, and specialized training designed to prepare such United States citizens for enrollment in schools of medicine or osteopathy in the States as full-time students with advanced standing.

(b) More than one school of medicine or osteopathy may join in the submission of an application for a grant under subsection (a).

(c) Any school of medicine or osteopathy which receives a grant under this subsection in the fiscal year ending September 30, 1978, shall submit to the Secretary before June 30, 1979, a report on the deficiencies (if any) identified by the school in the foreign medical education of the students trained by such school under the program for which such grant was made. The Secretary shall compile the reports submitted under the preceding sentence, and before September 30, 1979, submit to the Congress, his analysis and evaluation of the information contained in such reports.

(d) There are authorized to be appropriated for the purposes of this section \$2,000,000 for the fiscal year ending September 30, 1977, \$2,000,000 for the fiscal year ending September 30, 1978, \$3,000,000 for the fiscal year ending September 30, 1979, and \$4,000,000 for the fiscal year ending September 30, 1980.

PROGRAMS FOR PHYSICIAN ASSISTANTS, EXPANDED FUNCTION  
DENTAL AUXILIARIES AND DENTAL TEAM PRACTICE

42 U.S.C.  
295g-3

SEC. 783. (a) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine, osteopathy, and dentistry and other public or nonprofit private entities to meet the costs of projects to—

(1) plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(7));

(2) plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries (as defined in section 701(8)); and

(3) plan, develop, and operate or maintain a program to train dental students in the organization and management of multiple auxiliary dental team practice in accordance with regulations of the Secretary.

(b) No grant or contract may be made under subsection (a) unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted, in positions for which they have been trained.

(c) The Secretary shall ensure that the making of grants and entering into contracts under this section shall be integrated with the making of grants and entering into contracts under section 830.

(d) The costs for which a grant or contract under this section may be made include costs of preparing faculty members to teach in programs for the training of

physician assistants and expanded function dental auxiliaries.

(e) For payments under grants and contracts under this section, there is authorized to be appropriated \$25,000,000 for the fiscal year ending September 30, 1978, \$30,000,000 for the fiscal year ending September 30, 1979, and \$35,000,000 for the fiscal year ending September 30, 1980.

#### GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

SEC. 784. (a) The Secretary may make grants to and enter into contracts with schools of medicine and osteopathy to meet the costs of projects— 42 U.S.C.

(1) to plan, develop, and operate approved residency training programs in internal medicine or pediatrics, which emphasize the training of residents for the practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations); and

(2) which provide financial assistance (in the form of traineeships and fellowships) to residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

(b) There are authorized to be appropriated to carry out the provisions of this section \$10,000,000 for the fiscal year ending September 30, 1977, \$15,000,000 for the fiscal year ending September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1979, and \$25,000,000 for the fiscal year ending September 30, 1980.

#### OCCUPATIONAL HEALTH TRAINING AND EDUCATION CENTERS

SEC. 785. (a) (1) The Secretary shall, by grants, assist public or private nonprofit colleges or universities to establish, operate, and administer occupational health training and education center through cooperative arrangements between schools of medicine and schools of public health (or other qualified departments or schools within such colleges or universities which are qualified to participate in carrying out activities set forth in this section). 42 U.S.C.

(2) To be eligible for a grant under this section, the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the field of occupational health and support from other faculty members trained in the occupational health sciences and other relevant disciplines and medical and public health specialties and that it will substantially carry out occupational health training and education activities including, but not limited to—



(A) the establishment and operation of a new graduate training program or, where appropriate, the substantial expansion of an existing graduate training program in the field of occupational health;

(B) the development of curricula and operation of continuing education for physicians, nurses, industrial hygienists, and other professionals who practice full- or part-time in the field of occupational health in order to upgrade their proficiency in delivering such services;

(C) the establishment and operation of projects designed to increase admissions to and enrollment in occupational health programs of individuals who by virtue of their background and interests are likely to engage in the delivery of occupational health services;

(D) the establishment of traineeships for industrial hygiene students;

(E) the establishment and operation of medical residencies in the field of occupational health at a level of financial support comparable to that provided to individuals undergoing training in medical residencies in other medical specialties;

(F) the establishment and operation of traineeships in the field of occupational health for medical students, residents, nursing students, nurses, physicians, sanitarians and students and professionals in related fields;

(G) the establishment and operation of short-term traineeships for continuing education in the field of occupational health for health professionals dealing with problems of occupational health; and

(H) the appointment of full-time staff for the center, who have training, experience and demonstrated capacity for leadership in the field of occupational health.

(b) To the extent feasible, the Secretary shall approve, at least 10 such centers and at least one of which shall be located in each region of the Department.

(c) For the purpose of making grants to carry out this section, there are authorized to be appropriated \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$8,000,000 for the fiscal year ending September 30, 1979, and \$10,000,000 for the fiscal year ending September 30, 1980.

#### FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY

42 U.S.C.  
295g-6

SEC. 786. (a) The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school of medicine or osteopathy, or to or with a public or private nonprofit entity (which the Secretary

has determined is capable of carrying out such grant or contract)—

(1) to plan, develop, and operate, or participate in, an approved professional training program (including a continuing education program or an approved residency or internship program) in the field of family medicine for medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians;

(2) to provide financial assistance (in the form of traineeships and fellowships) to medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine;

(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine training programs; and

(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine training program.

(b) The Secretary may make grants to any public or nonprofit private school of dentistry or accredited post-graduate dental training institution—

(1) to plan, develop, and operate an approved residency program in the general practice of dentistry; and

(2) to provide financial assistance (in the form of traineeships and fellowships) to residents in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

(c) Not less than 10 percent of the amount appropriated in each fiscal year to make grants under this section shall be made available for grants under subsection (b).

(d) There are authorized to be appropriated to make grants under this section \$45,000,000 for the fiscal year ending September 30, 1978, \$45,000,000 for the fiscal year ending September 30, 1979, and \$50,000,000 for the fiscal year ending September 30, 1980.

#### EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

SEC. 787. (a) (1) For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the

42 U.S.C.  
295g-7

Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, and podiatry and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

(2) A grant or contract under paragraph (1) may be used by the health or educational entity to meet the cost of—

(A) identifying, recruiting, and selecting individuals from disadvantage backgrounds, as so determined, for education and training in a health profession,

(B) facilitating the entry of such individuals into such a school,

(C) providing counseling or other services designed to assist such individuals to complete successfully their education at such a school.

(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

(E) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program.

(b) There are authorized to be appropriated \$20,000,000 for the fiscal year ending September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1979, and \$20,000,000 for the fiscal year ending September 30, 1980, for payments under grants and contracts under subsection (a).

PROJECT GRANT AUTHORITY FOR START-UP ASSISTANCE, FINANCIAL DISTRESS INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT

42 U.S.C.  
295g-8

SEC. 788. (a) (1) In the case of any new school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry which begins instruction after July 1, 1974, the Secretary may, after taking into account—

(A) the ability of such school to use a grant under this subsection to (i) accelerate the date it will begin instruction, or (ii) increase the number of students in its entering class, and

(B) the other resources available to such school, make a grant to such school for each year such school



is a new school (as determined under paragraph (5)). No school may receive a grant under this subsection unless the Secretary estimates that the number of full-time students enrolled in its first school year of operation will exceed twenty-three.

(2) The Secretary shall determine the amount of any grant under this subsection; but no such grant to any school may exceed—

(A) in the case of the year preceding the first year in which such school has students enrolled, an amount equal to the product of \$10,000 and the number of full-time students which the Secretary estimates will enroll in such school in such first year;

(B) in the case of the first year in which such school has students enrolled, an amount equal to the product of \$7,500 and the number of full-time students enrolled in such school in such year;

(C) in the case of the second year in which such school has students enrolled, an amount equal to the product of \$5,000 and the number of full-time students enrolled in such school in such year; and

(D) in the case of the third year in which such school has students enrolled, an amount equal to the product of \$2,500 and the number of full-time students enrolled in such school in such year.

Estimates by the Secretary under this subsection of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

(3) A grant may not be made under this subsection unless an application for such grant is submitted to, and approved by, the Secretary. The Secretary shall give priority to applications which provide for projects which—

(A) assist in the planning, development, or initial operation of a new school of medicine, osteopathy, or dentistry (i) which will conduct exceptionally innovative programs for training students in ambulatory primary care in cooperation with accredited psychiatric practitioners or programs, as appropriate, or (ii) which will have as a major objective the provision of training opportunities for individuals from disadvantaged backgrounds;

(B) assist in the planning, development, expansion, or initial operation of a regional health profession school granting a degree in one or more of the following professions: medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health; or

(C) the Secretary determines will meet a national or regional need for members of the profession to be trained in the new school for which the application is submitted.

(4) The Secretary shall give special consideration to each application of a school for a grant under this subsection—

(A) which application contains or is reasonably supported by assurances that, because of the use that the school will make of existing facilities (including Federal medical or dental facilities), such school will be able to accelerate the date on which it will begin its teaching program;

(B) which school will be located in a health manpower shortage area (designated under section 332); or

(C) which school is a school of medicine or osteopathy which will be located in a State which has no other such school.

(5) For purposes of this subsection, any school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry shall be considered a new school for any year if such year is the year preceding the first year in which such school has students enrolled, such first year, and the next two years.

(b) (1) The Secretary may make grants to, and enter into contracts with, schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health for the purposes of assisting in—

(A) (i) meeting the costs of operation of any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health if they are in serious financial distress, or

(ii) meeting accreditation requirements, if they have a special need to be assisted in meeting such requirements, and

(B) carrying out appropriate operational, managerial, and financial reforms on the basis of information obtained in a comprehensive cost analysis study or on the basis of other relevant information.

(2) Any grant under this subsection may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree—

(A) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress,

(B) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and

(C) to carry out appropriate operational, managerial, and financial reforms (as the Secretary may require), including the securing of increased financial support from State or local governmental units or the increasing of tuition on the basis of information obtained in the course of a comprehensive cost

analysis study or on the basis of other relevant information.

(3) An application for a grant under this subsection must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its function as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health, as the case may be, during the fiscal year for which such grant is sought an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such training in the preceding two years.

(4) In the case of a school which has received a grant under this subsection in the immediately preceding fiscal year, the amount granted to that school under this subsection in any fiscal year may not exceed 75 percent of the amount granted to that school under this subsection in that immediately preceding fiscal year.

(5) The Secretary may provide to any school eligible for a grant under this subsection technical assistance to enable the school to conduct a comprehensive cost analysis study of its operations, to identify operational inefficiencies, and to develop or carry out appropriate operational, managerial, and financial reforms.

(6) The Secretary shall prepare and submit on or before September 30, 1978, a report on the administration of this subsection. Such report shall give special emphasis to a description of the results of any comprehensive cost analysis study carried out under paragraph (2)(B) and any operational, managerial, and financial reforms instituted under paragraph (2)(C).

(c) The Secretary may make grants to any health profession, allied health profession, or nurse training institution, or to any other public or nonprofit private entity for the development of programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, which emphasize—

(1) the use of the team approach to the delivery of health services,

(2) the training of physician assistants and nurse practitioners with physicians and expanded function dental auxiliaries with dentists, and

(3) the training of physicians, dentists, nurses, and other health professionals in the organization, management, and effective utilization of such assistants, practitioners, and auxiliaries.

(d) The Secretary may make grants to and enter into contracts with any health profession, allied health pro-



fession, or nurse training institution, or any other public or nonprofit private entity for health manpower projects and programs such as—

(1) speech pathology, audiology, bioanalysis, and medical technology;

(2) establishing humanism in health care centers;

(3) biomedical combined educational programs;

(4) cooperative human behavior and psychiatry in medical and dental education and practice;

(5) bilingual health clinical training centers;

(6) curriculum development in schools of optometry, pharmacy and podiatry;

(7) social work in health care;

(8) health manpower development;

(9) environmental health education and preventive medicine;

(10) the special medical problems related to women;

(11) the development or expansion of regional health professions schools;

(12) training of citizens of the United States from foreign health professions schools to enable them to enroll in residency programs in the States;

(13) psychology training programs;

(14) ethical implications of biomedical research;

(15) establishment of dietetic residencies;

(16) regional systems of continuing education;

(17) computer technology;

(18) training of professional standards review organization staff;

(19) training of health professionals in human nutrition and its application to health;

(20) health manpower development for the Trust Territories and incorporated Trust Territories of the United States; and

(21) training in the diagnosis, treatment, and prevention of the diseases and related medical and behavioral problems of the aged.

(e) (1) There are authorized to be appropriated to carry out the provisions of this section (other than the provisions of subsections (f) and (g)) \$25,000,000 for the fiscal year ending September 30, 1978, \$25,000,000 for the fiscal year ending September 30, 1979, and \$25,000,000 for the fiscal year ending September 30, 1980.

(2) From the sums authorized to be appropriated under paragraph (1) not more than—

(A) \$5,000,000 may be obligated or expended for the purposes of subsection (a), and

(B) \$5,000,000 may be obligated or expended for the purposes of subsection (b).

(f) (1) The Secretary may make grants to any school of medicine to meet the planning costs for projects for the

training of students, enrolled in the last two years of such school, in facilities—

(A) which are other than the principal teaching facilities of such school and which are existing Federal health care facilities or are other public or private health care facilities; and

(B) which are located in a health manpower shortage area (designated under section 332).

No grant may be made under this paragraph with respect to any project unless before the fiscal year for which the grant is to be made the project has received at least \$100,000 from non-Federal sources and has been approved by the legislature of the State in which it is located.

(2) For payments under grants under paragraph (1), there are authorized to be appropriated \$400,000 for the fiscal year ending September 30, 1977.

(g) (1) The Secretary may make grants to public and nonprofit private institutions of higher education and hospitals and other health care delivery facilities which are engaged in the development of new schools of medicine to assist such institutions and facilities in meeting the costs of employing faculty, acquiring equipment, and taking such other action related to the initial operation of a school of medicine as may be necessary for the proposed schools to meet the eligibility requirements for a grant under subsection (a) of this section.

(2) No application for a grant under paragraph (1) may be approved by the Secretary unless the application contains or is supported by assurances satisfactory to the Secretary that—

(A) with the assistance provided under the grant applied for the applicant will be able to accelerate the date on which the school of medicine being developed by the applicant will be able to begin its teaching program,

(B) there is a reasonable indication of non-Federal financial resources for development and operation of such school, and

(C) the school of medicine will emphasize training programs in family medicine and will improve access to health care for residents of the geographical regions in which such training programs are located.

The Secretary may not approve or disapprove an application submitted under this subsection unless he has consulted with the body recognized by the Commissioner of Education as the accrediting body for schools of medicine respecting approval of the application.

(3) No institution or facility may receive more than one grant under this subsection. For payment under grants under this subsection, there is authorized to be appropriated \$1,500,000 for the fiscal year ending September 30, 1977, and \$1,500,000 for the fiscal year ending September 30, 1978.

(4) Upon graduation of the second class from each school of medicine for which a grant was made under this subsection, the Secretary shall report to the Congress on the ability of the school of medicine to improve access to health care for residents of the geographical regions in which the clinical training programs of the school are located.

#### TRAINING IN EMERGENCY MEDICAL SERVICES

42 U.S.C.  
295g-9

SEC. 789.<sup>1</sup> (a) (1) The Secretary may make grants to and enter into contracts with hospitals having training programs which meet requirements established by the Secretary, of medicine, schools of medicine, dentistry, osteopathy, and nursing training centers for allied health professions, other appropriate educational entities, and other appropriate public entities (as defined in paragraph (2)) to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), to assist in meeting the cost of training (including the cost of establishing programs for the training) of physicians in emergency medicine, especially training which affords clinical experience in providing medical services in emergency medical services systems receiving assistance under title XII of this Act, and to provide financial assistance (in the form of traineeships and fellowships) to residents who plan to specialize or work in the practice of emergency medicine.

(2) For the purposes of paragraph (1), the term "other appropriate public entity" means a State, unit of general local government, or any other public entity which—

(A) has established an emergency medical services system (as defined in section 1201(1)), and

(B) except with respect to the basic training of emergency medical technicians, has entered into an agreement with an appropriate educational entity for a training program under this section.

(b) No grant or contract may be made or entered into under this section unless (1) the applicant is a public or nonprofit private entity, and (2) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner and contain such information, as the Secretary shall by regulation prescribe.

(c) The amount of any grant or contract under this section shall be determined by the Secretary. Payments under grants and contracts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. Grantees and contractees under this section

<sup>1</sup> Section 789 was previously section 776, but was redesignated as section 789 by Public Law 94-484. However, the amendments to the section made by Public Law 94-573 were made to it as section 776.



shall make such reports at such intervals and containing such information, as the Secretary may require.

(d) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(e) No regulation, guideline, funding priority, or application form shall be established with respect to this section without the full participation in the development of such regulation, guideline, priority, or form, by the administrative unit described in section 1208.

(f) To the maximum extent practicable, the Secretary shall establish a uniform funding cycle so as to coordinate the submission and review of applications for grants and contracts under title XII and under this section and to coordinate funding policies among programs carried out under such authorities.

(g) (1) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated \$10,000,000 for the fiscal year ending June 30, 1974, and each of the next five fiscal years.

(2) Not less than 30 percent of the funds appropriated under paragraph (1) for any fiscal year shall be used in that fiscal year to assist in meeting the cost of training, and of establishment of programs for the training of physicians in emergency medicine.

#### GENERAL PROVISIONS

SEC. 790. Except as otherwise provided in this part:

42 U.S.C.  
295g-10

(1) No grant may be made or contract entered into under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve or disapprove any application for a grant or contract under this part except after consultation with the National Advisory Council on Health Professions Education.

(2) Payments by recipients of grants or contracts under this part for (A) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees; and (B) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

(3) The amount of any grant or contract under this part shall be determined by the Secretary. Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

PART G—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

Subpart I—Public Health Personnel

GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

42 U.S.C. 295b

SEC. 791. (a) From funds appropriated under subsection (d), the Secretary shall make annual grants to public or nonprofit private educational entities (including schools or social work and excluding accredited schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, and health planning.

(b) The amount of the grant for any fiscal year under subsection (a) to an educational entity with an application approved under subsection (c) shall be equal to the amount appropriated under subsection (d) for such fiscal year divided by the number of educational entities which have applications for grants for such fiscal year approved under subsection (c).

(c) (1) No grant may be made under subsection (a) unless an application therefor has been submitted to the Secretary before such time as he shall by regulation prescribe and has been approved by the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation, prescribe.

(2) The Secretary may not approve an application submitted under paragraph (1) unless—

(A) such application—

(i) contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under subsection (a) that—

(I) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted; and

(II) such entity shall expend or obligate at least \$100,000 in funds from non-Federal sources to conduct such programs;

(ii) contains assurances satisfactory to the Secretary that such entity shall maintain a first-year enrollment of full-time students in the programs, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under this section is applied for, which exceeds the number of full-time, first-year students enrolled in such programs in

the school year beginning in the fiscal year ending September 30, 1976—

(I) by 5 percent of such number if such number was not more than 100, or

(II) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100; and

(iii) contains such other information as the Secretary may by regulation prescribe; and

(B) the program for which such application was submitted has been accredited for the training of individuals for health administration, hospital administration, or health planning by a recognized body or bodies approved for such purpose by the Commissioner of Education and meets such other quality standards as the Secretary shall by regulation prescribe.

(3) The Secretary may waive (in whole or in part) the requirements of clause (ii) of paragraph (2) (A) with respect to any school upon written notification by the appropriate accreditation body or bodies that compliance with the assurances required by such paragraph will prevent such school from meeting the accreditation standards of such body or bodies.

(4) The Secretary may not approve or disapprove an application submitted under paragraph (1) except after consultation with the National Advisory Council on Health Professions Education.

(d) There are authorized to be appropriated for payments under grants under this section \$3,250,000 for the fiscal year ending September 30, 1978, \$3,500,000 for the fiscal year ending September 30, 1979, and \$3,750,000 for the fiscal year ending September 30, 1980.

#### SPECIAL PROJECTS FOR ACCREDITED SCHOOLS OF PUBLIC HEALTH AND GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

SEC. 792. (a) The Secretary may make grants to assist accredited schools of public health in meeting the costs of special projects to develop new programs or to expand existing programs in—

42 U.S.C.  
295h-1

(1) biostatistics or epidemiology,

(2) health administration, health planning, or health policy analysis and planning,

(3) environmental or occupational health, or

(4) dietetics and nutrition.

(b) (1) The Secretary may make grants to assist those public or nonprofit educational entities (including graduate schools of social work) which have accredited programs described in paragraph (2) in meeting the costs of special projects to develop new programs or to expand existing programs in—



- (A) biostatistics or epidemiology,
- (B) health administration, health planning or health policy analysis and planning,
- (C) environmental or occupational health, or
- (D) dietetics and nutrition.

(2) For purposes of this subsection, an accredited program is a graduate program which is accredited for the training of individuals in health administration, health planning, or health policy analysis and planning by a recognized body or bodies approved by the Commissioner of Education and which meets such other quality standards as the Secretary may by regulation prescribe.

(c) There are authorized for the purpose of making payments under grants under this section \$5,000,000 for the fiscal year ending September 30, 1978; \$5,500,000 for the fiscal year ending September 30, 1979; and \$6,000,000 for the fiscal year ending September 30, 1980.

#### STATISTICS AND ANNUAL REPORT

42 U.S.C.  
295h-2

SEC. 793. (a) The Secretary shall, in coordination with the National Center for Health Statistics (established under section 306), continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting public and community health personnel, including—

(1) detailed descriptions of the various types of activities in which public and community health personnel are engaged,

(2) the current and anticipated needs for the various types of public and community health personnel, and

(3) the number, employment, geographic locations, salaries, and surpluses and shortages of public and community health personnel, the educational and licensure requirements for the various types of such personnel, and the cost of training such personnel.

(b) (1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as "personal data") for purposes of this section—

(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the activities conducted under this section.

(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity to use such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

(3) (A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

(4) For purposes of this subsection, the term "program entity" means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

(c) The Secretary shall submit annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a report on—

(1) the statistics and other information developed pursuant to subsection (a), and

(2) the activities conducted under this subpart, including an evaluation of such activities.

Such report shall contain such recommendations for legislation as the Secretary determines are needed to improve the programs authorized under this subpart. The Office of Management and Budget may review such report before its submission to such Committees, but the Office may not revise the report or delay its submission

beyond the date prescribed for its submission and may submit to such Committees its comments respecting such report. The first report under this subsection shall be submitted not later than December 1, 1978.

(d) For purposes of this section, the term "public and community health personnel" means individuals who are engaged in—

(1) the planning, development, monitoring, or management of health care or health care institutions, organizations, or systems,

(2) research on health care development and the collection and analysis of health statistics, data on the health of population groups, and any other health data,

(3) the development and improvement of individual and community knowledge of health (including environmental health and preventive medicine) and the health care system, or

(4) the planning and development of a healthful environment and control of environmental health hazards.

## Subpart II—Allied Health Personnel

### DEFINITIONS

42 U.S.C.  
295h-4

SEC. 795. For purposes of this subpart:

(1) The term "allied health personnel" means individuals with training and responsibilities for (A) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (B) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

(2) The term "training center for allied health professions" means a junior college, college, or university—

(A) which provides, or can provide, programs of education leading to a baccalaureate or associate degree (or to the equivalent of either) or to a higher degree in medical technology, optometric technology, dental hygiene, or in any of such other of the allied health professions curricula as are specified by regulation, or which, if in a junior college, provides a program (i) leading to an associate or an equivalent degree, (ii) of education in optometric technology, dental hygiene, or such other curricula as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed to prepare the student to work



as a technician in a health occupation specified by regulations of the Secretary,

(B) which provides training for not less than a total of twenty persons in such curricula,

(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital, and

(D) which is (or is in a college or university which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Secretary that reasonable progress is being made toward accreditation by such junior college,

except that an applicant for a grant under this subpart which does not at the time of application meet the requirement of subparagraph (B) shall be deemed to meet such requirement if the Secretary finds there is reasonable assurance that the unit will meet the requirement of subparagraph (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit.

(3) The term "nonprofit" as applied to any training center for allied health professions means such a training center which is an entity, or is owned and operated by an entity, no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual; and as applied to any entity means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

#### PROJECT GRANTS AND CONTRACTS

SEC. 796. (a) The Secretary shall make grants to and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, demonstrating, operating, and evaluating projects relating to:

(1) Establishment of regional or State systems for the coordination and management of education and training at various levels for allied health personnel and nurses within and among educational institutions and their clinical affiliates for the purpose of assuring that the needs of such region or State for allied health personnel and nurses are substantially met.

(2) Establishment of new roles and functions for allied health personnel and methods for increasing the efficiency of health manpower through more effective utilization of allied health personnel in various practice settings.

(3) Establishment of new or improved methods of credentialing allied health personnel, including techniques for appropriate recognition (through equivalency and proficiency testing or otherwise) of previously acquired training or experience, developed in coordination with the Secretary's program under section 1123 of the Social Security Act.

(4) Establishment or improvement of programs of recruitment, training, and retraining of allied health personnel.

(5) Establishment of meaningful career ladders and programs of advancement for practicing allied health personnel.

(6) Establishment of continuing education programs for practicing allied health personnel.

(b)(1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

(c) For purposes of subsection (a), the term "eligible entities" means entities which are—

(1) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe;

(2) States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions of States or both;

(3) entities which have a working arrangement (meeting such requirements as the Secretary may by regulation prescribe) with an entity described in paragraph (1); or

(4) other public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsection (a).

(d)(1) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated \$22,000,000 for the fiscal year ending September 30, 1978; \$24,000,000 for the fiscal year ending September 30, 1979; and \$26,000,000 for the fiscal year ending September 30, 1980.

(2) In each fiscal year for which funds are authorized to be appropriated under this subsection, not less than

50 percent of the funds appropriated shall be reserved for award to training centers for allied health professions.

#### TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL

SEC. 797. (a) The Secretary may make grants to public and nonprofit private entities for traineeships provided by such entities for the advanced training of allied health personnel to teach in training programs for such personnel or to serve in administrative or supervisory positions.

42 U.S.C.  
295h-7

(b) (1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

(2) Payments under such grants shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees.

(c) for the purposes of making payments under grants under subsection (a), there are authorized to be appropriated \$4,500,000 for the fiscal year ending September 30, 1978; \$5,000,000 for the fiscal year ending September 30, 1979; and \$5,500,000 for the fiscal year ending September 30, 1980.

#### EDUCATIONAL ASSISTANCE TO DISADVANTAGED INDIVIDUALS IN ALLIED HEALTH TRAINING

SEC. 798. (a) (1) For the purpose of assisting individuals who, due to socioeconomic factors, are financially or otherwise disadvantaged (including individuals who are veterans of the Armed Forces with military training or experience in the health field) to undertake education to enter the allied health professions, the Secretary may make grants to and enter into contracts with schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist in meeting the costs described in paragraph (2).

42 U.S.C.  
295h-6

(2) A grant or contract under paragraph (1) may be used by the school, agency, or entity to meet the costs of—

(A) identifying, recruiting, and selecting such disadvantaged individuals who have a potential for education or training in the allied health professions;

(B) facilitating the entry of such individuals into such a school, agency, or entity;

(C) providing counseling or other services designed to assist such individuals to complete suc-



cessfully their education at such school, agency, or entity;

(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, agency, or entity, preliminary education designed to assist them to complete successfully such regular course of education at such a school, agency, or entity, or referring such individuals to institutions providing such preliminary education; and

(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such a school, agency, or entity or who are undertaking training necessary to qualify them to enroll in such a program.

(b) (1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

(c) For payments under grants and contracts under subsection (a) there are authorized to be appropriated \$1,000,000 for fiscal year ending September 30, 1978, \$1,000,000 for fiscal year ending September 30, 1979, and \$1,000,000 for fiscal year ending September 30, 1980.

## TITLE VIII—NURSE TRAINING

### PART A—ASSISTANCE FOR EXPANSION AND IMPROVEMENT OF NURSE TRAINING

#### Subpart I—Construction Assistance

##### AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION GRANTS

SEC. 801. There are authorized to be appropriated for grants to assist in the construction of new facilities for collegiate, associate degree, or diploma schools of nursing, and for grants to assist in the replacement or rehabilitation of existing facilities for such schools, \$35,000,000 for the fiscal year ending June 30, 1972, \$40,000,000 for the fiscal year ending June 30, 1973, \$45,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, \$20,000,000 for fiscal year 1976, \$20,000,000 for fiscal year 1977, and \$20,000,000 for fiscal year 1978.

42 U.S.C. 296

##### APPROVAL OF APPLICATIONS FOR CONSTRUCTION GRANTS

SEC. 802. (a) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications for grants under this subpart for any fiscal year must be filed.

42 U.S.C. 296a

(b) A grant for a construction project under this subpart may be made only if the application therefor is approved by the Secretary upon his determination that—

(1) the applicant is a public or nonprofit private school of nursing providing an accredited program of nursing education;

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of construction, the facility will be used for the purposes of the training for which it is to be constructed, and will not be used for sectarian instruction or as a place for religious worship, (B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, (C) sufficient funds will

be available, when construction is completed, for effective use of the facility for the training for which it is being constructed, and (D) in the case of an application for a grant for construction to expand the training capacity of a school of nursing, the first-year enrollment at such school during the first full school year after the completion of the construction and for each of the nine years thereafter will exceed the highest first-year enrollment at such school for any of the five full school years preceding the year in which the application is made by at least 5 per centum of such highest first-year enrollment, or by five students, whichever is greater, and the requirements of this clause (D) shall be in addition to the requirements of section 810(c) of this Act, where applicable;

(3) (A) in the case of an application for a grant for construction of a new facility, such application is for aid in the construction of a new school of nursing, or construction which will expand the training capacity of an existing school of nursing, or (B) in the case of an application for a grant to assist in the replacement or rehabilitation of existing facilities, such application is for aid in construction which will replace or rehabilitate facilities of, or used by, an existing school of nursing, which facilities either are so obsolete as to require the school to curtail substantially either its enrollment or the quality of the training provided or are required to meet an increase in student enrollment;

(4) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

(5) the application contains or is supported by adequate assurances that all laborers and mechanics employed by contractors or subcontractors in the performance work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

Before approving or disapproving an application for a construction project under this subpart, the Secretary shall secure the advice of the National Advisory Council on Nurse Training established by section 851.



(c) In considering applications for grants, the Council and the Secretary shall take into account—

(1) (A) in the case of a project for a new school or the expansion of the facilities of an existing school, the relative effectiveness of the proposed facilities (i) in expanding the capacity for the training of first-year students of nursing in the field involved and in promoting an equitable geographical distribution of opportunities for such training (giving due consideration to population, relative unavailability of nurses of the kind to be trained by such school, and available resources in various areas of the Nation for the training such nurses), or (ii) in expanding the capacity of the school to provide graduate training; or

(B) in the case of a project for replacement or rehabilitation of existing facilities of a school, the relative need for such replacement or rehabilitation to prevent curtailment of the school's enrollment or deterioration of the quality of the training provided by the school, and the relative size of any such curtailment and its effect on the geographical distribution of opportunities for training in the field of nursing involved (giving consideration to the factors mentioned in subparagraph (A)); and

(2) in the case of an applicant in a State which has in existence a State or local area agency involved with planning for nurse training facilities, or which participates in a regional or other interstate agency involved with planning for nurse training facilities, the relationship of the application to the construction or training program which is being developed by such agency or agencies and, if such agency or agencies have reviewed such application, any comment thereon submitted by them.

#### AMOUNT OF CONSTRUCTION GRANT; PAYMENTS

SEC. 803. (a) The amount of any grant for a construction project under this subpart shall be such amount as the Secretary determines to be appropriate after obtaining the advice of the National Advisory Council on Nurse Training; except that—

42 U.S.C. 296b

(1) in the case of a grant—

(A) for a project for a new school,

(B) for a project for new facilities for an existing school in cases where such facilities are of particular importance in providing a major expansion of training capacity, as determined in accordance with regulations, or

(C) for a project for major remodeling or renovation of an existing facility where such project is required to meet an increase in student enrollment,

the amount of such grant may not exceed 75 per centum of the necessary cost of construction, as determined by the Secretary, of such project; and

(2) in the case of a grant for any other project, the amount of such grant may not, except where the Secretary determines that unusual circumstances make a larger percentage (which may in no case exceed 75 per centum) necessary in order to effectuate the purposes of this subpart, exceed 67 per centum of the necessary cost of construction, as so determined, of the project with respect to which the grant is made.

(b) Upon approval of any application for a grant for a construction project under this subpart, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant as determined under subsection (a); the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.

(c) In determining the amount of any such grant under this subpart, there shall be excluded from the cost of construction an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to the construction which is to be financed in part by grants authorized under this part, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

#### RECAPTURE OF PAYMENTS

42 U.S.C. 296c

SEC. 804. If, within twenty years (or in the case of interim facilities, within such shorter period as the Secretary shall by regulation prescribe) after completion of any construction for which funds have been paid under this subpart—

(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private school, or

(2) the facility shall cease to be used for the training purposes for which it was constructed (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing

the applicant or other owner from the obligation to do so), or

(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

#### LOAN GUARANTEES AND INTEREST SUBSIDIES

SEC. 805. (a) In order to assist nonprofit private schools of nursing to carry out construction projects for training facilities, the Secretary may, during the period beginning July 1, 1971, and ending with the close of September 30, 1978, guarantee (in accordance with this section and subject to subsection (f)) to non-Federal lenders or the Federal Financing Bank making loans to such schools for such construction projects payment when due of the principal of and interest on any loan for construction of such facilities if the loan was made to a school which is eligible (as determined under regulations of the Secretary) for a grant under this subpart to assist a construction project for such facilities. The Secretary may make commitments, on behalf of the United States, to make such loan guarantees prior to the making of such loans. No such loan guarantee may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant for construction under this subpart or any other law of the United States, exceeds 90 per centum of the cost of construction of the projects. 42 U.S.C. 296d

(b) In the case of any nonprofit private school of nursing which is eligible (as determined under regulations of the Secretary) for a grant under this subpart to assist a construction project for training facilities, and to whom a loan has been made by a non-Federal lender or the Federal Financing Bank to assist it in carrying out such project, the Secretary, during the period beginning July 1, 1971, and ending with the close of September 30, 1978, may, subject to subsection (f), pay to the holder of such loan (and for and on behalf of the school which received such loan) amounts sufficient to reduce by not to exceed 3 per centum per annum the net effective interest rate otherwise payable on such loan.

(c) A loan guarantee or interest subsidy payment may be made under this section only upon an application (sub-



mitted in such manner and containing such information as the Secretary may be regulations require) approved by the Secretary. The Secretary may not approve an application for a loan guarantee or interest subsidy payment unless he determines that the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may not approve an application for a loan guarantee, unless he determines that the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(d) (1) The United States shall be entitled to recover from any school of nursing for whom a loan guarantee was made under this section the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) To the extent permitted by paragraph (3), any terms and conditions applicable to a loan guarantee under this section may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(3) Any loan guarantee made by the Secretary pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(e) There is established in the Treasury a loan guarantee and interest subsidy fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, (1) to enable him to discharge his responsibilities under guarantees issued by him under this section, and (2) for interest subsidy payments authorized by this section. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund; except that the amount appropriated for interest subsidy payments may not exceed \$1,000,000 in the fiscal

year ending June 30, 1972, \$2,000,000 in the fiscal year ending June 30, 1973, \$4,000,000 in the fiscal year ending June 30, 1974 or in the next fiscal year, \$1,000,000 in fiscal year 1976, \$1,000,000 in fiscal year 1977, and \$1,000,000 in fiscal year 1978. There shall also be deposited in the fund amounts received by the Secretary or other property or assets derived by him from his operations under this section, including any money derived from the sale of assets. If at any time the sums in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this section or to make interest subsidy payments authorized by this section, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(f) (1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(2) In any fiscal year no loan guarantee may be made under subsection (a) and no agreement to make interest subsidy payments may be entered into under subsection (b) if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

(A) the principal of the loans guaranteed under subsection (a) in such fiscal year, and

(B) the principal of the loans for which no guarantee has been made under subsection (a) and with respect to which an agreement to make interest subsidy payments is entered into under subsection (b) in such fiscal year.

to exceed the amount of grant funds obligated under this subpart in such fiscal year for construction grants; except that this paragraph shall not apply if the amount of grant funds so obligated in such fiscal year equals the sums appropriated for such fiscal year under section 801.

(g) The Secretary, with the consent of the Secretary of Housing and Urban Development, may obtain from the Department of Housing and Urban Development such assistance with respect to the administrative of this section as will promote efficiency and economy thereof.

## Subpart II.—Capitation Grants

### CAPITATION GRANTS

42 U.S.C. 296e

SEC. 810. (a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of nursing for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed for each fiscal year as follows:

(1) Each collegiate school of nursing shall receive \$400 for each undergraduate full-time student enrolled in each of the last two years of such school in such fiscal year.

(2) Each associate degree school of nursing shall receive (A) the product of \$275 and one-half of the number of full-time students enrolled in the first year of such school in such fiscal year, and (B) \$275 for each full-time student enrolled in the last year of such school in such fiscal year.

(3) Each diploma school of nursing shall receive \$250 for each full-time student enrolled in such school in such fiscal year.

(b) APPORTIONMENT OF APPROPRIATIONS.—If the total of the grants to be made under subsection (a) for any fiscal year to schools with approved applications exceeds the amounts appropriated under subsection (f) for such grants, the amount of the grant for that fiscal year to each such school shall be an amount which bears the same ratio to the amount determined for the school for that fiscal year under subsection (a) as the total of the amounts appropriated under subsection (f) for that year bears to the amount required to make grants to each school in accordance with subsection (a).

(c)(1) REQUIREMENTS FOR GRANTS.—The Secretary shall not make a grant under subsection (a) to any school



of nursing in a fiscal year beginning after June 30, 1975, unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that—

(A) the first-year enrollment of full-time students in the school in the school year beginning in the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year; and

(B) that the school will expend in carrying out its function as a school of nursing, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purposes (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought.

The requirement of subparagraph (A) shall be in addition to the requirements of section 802(b) (2) (D), where applicable.

(2) The Secretary shall not make a grant under subsection (a) to any school of nursing in a fiscal year beginning after June 30, 1975, unless one of the following requirements is met:

(A) The application for such grant shall contain or be supported by reasonable assurances satisfactory to the Secretary that for the school year beginning in the fiscal year in which such grant is to be made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first year enrollment of full-time students in such school will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1975—

(i) by 10 per centum of such number if such number was not more than one hundred, or

(ii) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred.

(B) The school has provided reasonable assurance satisfactory to the Secretary that it will carry out, in accordance with a plan submitted by the school to the Secretary and approved by him, at least two of the following programs in the school year beginning in the school year in which such grant is to be made and in each school year thereafter beginning in a school year in which such a grant is made:

(i) In the case of collegiate schools of nursing, a program for the training of nurse practitioners (as defined in section 822).

(ii) A program under which students enrolled in a school of nursing will receive a significant portion of their clinical training in community health centers, long-term care facilities, and ambulatory care facilities geographically remote from the main site of the teaching facilities of the school.

(iii) A program for the continuing education of nurses which meets needs identified by appropriate State, regional, or local health or educational entities (including health systems agencies).

(iv) A program to identify, recruit, enroll, retain, and graduate individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary) under which program at least 10 per centum of each year's entering class (or ten students, whichever is greater) is comprised of such individuals.

(d) ENROLLMENT AND GRADUATION DETERMINATIONS.—

(1) For purposes of this part and part D, regulations of the Secretary shall include provisions relating to determination of the number of students enrolled in a school, or in a particular year-class in a school, or the number of graduates, as the case may be, on the basis of estimates or on the basis of the number of students who were enrolled in a school, or in a particular year-class in a school, or were graduates, in an earlier year, as the case may be, or on such basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

(2) For purposes of this part and part D, the term "full-time students" (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study in an accredited program in a school of nursing.

(e) APPLICATION FOR NEW SCHOOLS.—In the case of a new school of nursing which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subsection (a) shall be the number of full-time students which the Secretary determines, on the basis of assurance provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

<sup>1</sup>(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated \$78,000,000 for the fiscal year ending June 30, 1972, \$82,000,000 for the fiscal year ending June 30, 1973, \$88,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, \$50,000,000 for fiscal year 1976, \$55,000,000 for fiscal year 1977, and \$55,000,000 for fiscal year 1978, for grants under this section.

(2) No funds appropriated under any provision of this Act (other than this subsection) may be used to make grants under this section.

## APPLICATIONS FOR GRANTS

SEC. 811. (a) The Secretary may from time to time set dates (not earlier than in the fiscal year preceding the year for which a grant is sought) by which applications under this subpart for any fiscal year must be filed. 42 U.S.C. 296f

(b) The Secretary shall not approve or disapprove any application for a grant under this subpart except after consultation with the National Advisory Council on Nurse Training.

(c) A grant under this subpart may be made only if the application therefor—

(1) is from a public or nonprofit private school of nursing;

(2) contains such additional information as the Secretary may require to make the determinations required of him under this subpart and such assurances as he may find necessary to carry out the purposes of this subpart; and

(3) provides for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart.

## Subpart III—Financial Distress Grants

## FINANCIAL DISTRESS GRANTS

SEC. 815. (a) The Secretary may make grants to assist public or nonprofit private schools of nursing which are in serious financial straits to meet operational costs required to maintain quality educational programs or 42 U.S.C. 296j

<sup>1</sup> For fiscal year 1976, and for each of the next two fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make annual grants to schools of nursing under section 806(a) of the Act (as in effect on June 30, 1975) based on the number of enrollment bonus students (determined in accordance with subsections (c) and (d) of section 806 of the Act (as so in effect)) enrolled in such schools who were first-year students in such schools for school years beginning before June 30, 1975.



which have special need for financial assistance to meet accreditation requirements. Any such grant may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree (1) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress, (2) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and (3) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information.

(b) (1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Nurse Training.

(2) An application for a grant under subsection (a) must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of nursing, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three fiscal years immediately preceding the fiscal year for which such grant is sought. The Secretary may, after consultation with the National Advisory Council on Nurse Training, waive the requirement of the preceding sentence with respect to any school if he determines that the application of such requirement to such school would be inconsistent with the purposes of subsection (a).

(c) For payments under grants under this section there are authorized to be appropriated \$5,000,000 for fiscal year 1976, \$5,000,000 for fiscal year 1977, and \$5,000,000 for fiscal year 1978.

#### Subpart IV—Special Projects

##### SPECIAL PROJECT GRANTS AND CONTRACTS

42 U.S.C. 296k

SEC. 820. (a) The Secretary may make grants to public and nonprofit private schools of nursing and other public or nonprofit private entities, and enter into contracts with any public or private entity, to meet the costs of special projects to—

(1) assist in—

(A) mergers between hospital training programs or between hospital training programs and academic institutions, or

(B) other cooperative arrangements among hospitals and academic institutions, leading to the establishment of nurse training programs;

(2) (A) plan, develop, or establish new nurse training programs or programs of research in nursing education, or

(B) significantly improve curricula of schools of nursing (including curriculums of pediatric nursing and geriatric nursing) or modify existing programs of nursing education;

(3) increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, by—

(A) identifying, recruiting, and selecting such individuals,

(B) facilitating the entry of such individuals into schools of nursing,

(C) providing counseling or other services designed to assist such individuals to complete successfully their nursing education,

(D) providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education,

(E) paying such stipends (including allowances for travel and dependents) as the Secretary may determine for such individuals for any period of nursing education, and

(F) publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools;

(4) provide continuing education for nurses;

(5) provide appropriate retraining opportunities for nurses who (after periods of professional inactivity) desire again actively to engage in the nursing profession;

(6) help to increase the supply or improve the distribution by geographic area or by specialty group of adequately trained nursing personnel (including nursing personnel who are bilingual) needed to meet the health needs of the Nation, including the need to increase the availability of personal health services and the need to promote preventive health care;

(7) provide training and education to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel; or

(8) assist in meeting the costs of developing short-term (not to exceed 6 months) in-service training programs for nurses aides and orderlies for nursing homes, which programs emphasize the special problems of geriatric patients and include training for monitoring the well-being and feeding and cleaning of the patients in nursing homes, emergency procedures, drug properties and interactions, and fire safety techniques.

Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(b) The Secretary may, with the advice of the National Advisory Council on Nurse Training, provide assistance to the heads of other departments and agencies of the Government to encourage and assist in the utilization of medical facilities under their jurisdiction for nurse training programs.

(c) No grant or contract may be made under this section unless an application therefore has been submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Nurse Training. Such an application shall provide for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

(d) For payments under grants and contracts under this section there are authorized to be appropriated \$15,000,000 for fiscal year 1976, \$15,000,000 for fiscal year 1977, and \$15,000,000 for fiscal year 1978. Not less than 10 per centum of the funds appropriated under this subsection for any fiscal year shall be used for payments under grants and contracts to meet the costs of the special projects described in subsection (a) (3).

#### ADVANCED NURSE TRAINING PROGRAMS

42 U.S.C. 2961

SEC. 821. (a) (1) The Secretary may make grants to and enter into contracts with public and nonprofit private collegiate schools of nursing to meet the costs of projects to—

- (A) plan, develop, and operate,
- (B) significantly expand, or
- (C) maintain existing.

programs for the advanced training of professional nurses to each in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve



in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training.

(b) For payments under grants and contracts under this section there are authorized to be appropriated \$15,000,000 for fiscal year 1976, \$20,000,000 for fiscal year 1977, and \$25,000,000 for fiscal year 1978.

#### NURSE PRACTITIONER PROGRAMS

SEC. 822. (a) (1) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other public or nonprofit private entities to meet the cost of projects to— 42 U.S.C. 296m

(A) plan, develop, and operate,

(B) significantly expand, or

(C) maintain existing,

programs for the training of nurse practitioners. The Secretary shall give special consideration to applications for grants or contracts for programs for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 332) and for the training of nurse practitioners which emphasize training respecting the special problems of geriatric patients and training to meet the particular needs of nursing home patients.

(2) (A) For purposes of this section, the term "programs for the training of nurse practitioners" means educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meet guidelines prescribed by the Secretary in accordance with subparagraph (B) and which have as their objective the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, and other health care institutions.

(B) After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for programs for the training of nurse practitioners. Such guidelines shall, as a minimum, require that such a program—

(i) extend for at least one academic year and consist of—

(I) supervised clinical practice, and

(II) at least four months (in the aggregate)

of classroom instruction,

directed toward preparing nurses to deliver primary health care; and

(ii) have an enrollment of not less than eight students.

(b) (1) The Secretary may make grants to and enter into contracts with schools of nursing, medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to establish and operate traineeship programs to train nurse practitioners who are residents of a health manpower shortage area (designated under section 332).

(2) Traineeships funded under this subsection shall include 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to practice as a nurse practitioner in a health manpower shortage area (designated under section 332).

(c) No grant may be made or contract entered into for a project to plan, develop, and operate a program for the training of nurse practitioners unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program will upon its development meet the guidelines which are in effect under subsection (a) (2) (B); and no grant may be made or contract entered into for a project to expand or maintain such a program unless the application for the grant or contract contains assurances satisfactory to the Secretary that the program meets the guidelines which are in effect under such subsection.

(d) The costs for which a grant or contract under this section may be made may include costs of preparation of faculty members in order to conform to the guidelines established under subsection (a) (2) (B).

(e) For payments under grants and contracts under this section there are authorized to be appropriated \$15,000,000 for fiscal year 1976, \$20,000,000 for fiscal year 1977, and \$25,000,000 for fiscal year 1978.

## PART B—ASSISTANCE TO NURSING STUDENTS

### Subpart I—Traineeships

#### TRAINEESHIPS FOR ADVANCED TRAINING OF PROFESSIONAL NURSES

42 U.S.C. 297

SEC. 830. (a) (1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for the training of professional nurses—

(A) to teach in the various fields of nurse training (including practical nurse training),

(B) to serve in administrative or supervisory capacities,

(C) to serve as nurse practitioners, or

(D) to serve in other professional nursing specialties determined by the Secretary to require advanced training.

(2) In making grants for traineeships under this subsection, the Secretary shall give special consideration to applications for traineeship programs which conform to guidelines established by the Secretary under section 822 (a) (2) (B).

(3) Payments to institutions under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. Such payments may be used only for traineeships and shall be limited to such amounts as the Secretary finds necessary to cover the costs of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainees.

(b) There are authorized to be appropriated for the purposes of this section \$15,000,000 for the fiscal year ending June 30, 1976, \$20,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for the fiscal year ending September 30, 1978.

## <sup>1</sup> Subpart II—Student Loans

### LOAN AGREEMENTS

SEC. 835. (a) The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or nonprofit private school of nursing which is located in a State.

42 U.S.C. 297a

(b) Each agreement entered into under this section shall—

(1) provide for establishment of a student loan fund by the school;

(2) provide for deposit in the fund, except as provided in section 841, of (A) the Federal capital contributions paid from allotments under section 838 to the school by the Secretary, (B) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (C) collections of principal and interest on loans made from the fund, (D) collections pursuant to section 836(f), and (E) any other earnings of the fund;

(3) provide that the fund, except as provided in section 841, shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

<sup>1</sup> Title IX of the Special Health Revenue Sharing Act of 1975 repealed section 827 of the Public Health Service Act which included a revolving fund. With respect to such fund, such title IX provided the following: The nurse training fund created within the Treasury by section 827(d) (1) of the Act shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participations in obligations acquired under section 827 of the Act. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 827. If at any time the Secretary determines the moneys in the funds exceed the present and any reasonable prospective further requirements of such fund, such excess may be transferred to the general fund of the Treasury. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 827(b) of the Act before the date of the enactment of this Act.



(4) provide that loans may be made from such fund only to students pursuing a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree or a diploma in nursing, or to a graduate degree in nursing, and that while the agreement remains in effect no such student who has attended such school before October 1, 1978, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958; and

(5) contain such other provisions as are necessary to protect the financial interests of the United States.

#### LOAN PROVISIONS

42 U.S.C. 297b

SEC. 836. (a) The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by schools of nursing from loan funds established pursuant to agreements under this subpart may not exceed \$2,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed \$10,000 in the case of any student. In the granting of such loans, a school shall give preference to licensed practical nurses and to persons who enter as first-year students after enactment of this title.

(b) Loans from any such student loan fund by any school shall be made on such terms and conditions as the school may determine: subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

(1) such a loan may be made only to a student who (A) is in need of the amount of the loan to pursue a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing, and (B) is capable, in the opinion of the school, of maintaining good standing in such course of study;

(2) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins nine months after the student ceases to pursue a full-time or half-time course of study at a school of nursing, excluding from such 10-year period all (A) periods (up to three years) of (i) active duty performed by the borrower as a member of a uniformed service, or (ii) service as a volunteer under the Peace Corps Act, and (B) periods (up to five years) during which the borrower is

pursuing a full-time course of study at a collegiate school of nursing leading to baccalaureate degree in nursing or an equivalent degree, or to graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing (or training to be a nurse anesthetist) ;

(3) an amount up to 85 per centum of any such loan (plus interest thereon) shall be canceled for full-time employment as a professional nurse (including teaching in any of the fields of nurse training and service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers), at the rate of 15 per centum of the amount of such loan (plus interest) unpaid on the first day of such service for each of the first, second, and third complete year of such service, and 20 per centum of such amount (plus interest) for each complete fourth and fifth year of such service ;

(4) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled ;

(5) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum ;

(6) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required ;

(7) no note or other evidence of any such loan may be transferred or assigned by the school making the loan except that, if the borrower transfers to another school participating in the program under this subpart, such note or other evidence of a loan may be transferred to such other school.

(c) Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school's proportionate share of the canceled portion, as determined by the Secretary.

(d) Any loan for any year by a school from a student loan fund established pursuant to an agreement under this subpart shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the school that any recipient of a loan is failing to maintain satis-

factory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

(e) An agreement under this subpart with any school shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the school in need thereof.

(f) Subject to regulations of the Secretary, a school may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (b)(2) or cancellation of part or all of the loan under subsection (b)(3), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed \$1 for the first month or part of a month by which such installment or evidence is late and \$2 for each such month or part of a month thereafter. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(g) A school may provide in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than \$15 per month.

(h) (1) In the case of any individual—

(A) who has received a baccalaureate or associate degree in nursing (or an equivalent degree), a diploma in nursing, or a graduate degree in nursing;

(B) who obtained (A) one or more loans from a loan fund established under this subpart, or (B) any other educational loan for nurse training costs; and

(C) who enters into an agreement with the Secretary to serve as a nurse for a period of at least two years in an area in a State determined by the Secretary, after consultation with the appropriate State health authority (as determined by the Secretary by regulations), to have a shortage of and need for nurses;

the Secretary shall make payments in accordance with paragraph (2), for and on behalf of that individual, on the principal of and interest on any loan of that individual described in subparagraph (B) of this paragraph



which is outstanding on the date the individual begins the service specified in the agreement described in subparagraph (C) of this paragraph.

(2) The payments described in paragraph (1) shall be made by the Secretary as follows:

(A) Upon completion by the individual for whom the payments are to be made of the first year of the service specified in the agreement entered into with the Secretary under paragraph (1), the Secretary shall pay 30 per centum of the principal of, and the interest on each loan of such individual described in paragraph (1) (B) which is outstanding on the date he began such practice.

(B) Upon completion by that individual of the second year of such service, the Secretary shall pay another 30 per centum of the principal of, and the interest on each such loan.

(C) Upon completion by that individual of a third year of such service, the Secretary shall pay another 25 per centum of the principal of, and the interest on each such loan.

(3) Notwithstanding the requirement of completion of practice specified in paragraph (2), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of service for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by paragraph (1) or paragraph (2) (C), and that the borrower will continue to be so engaged for the period required (in the absence of this paragraph) to entitle the borrower to have made the payments provided by this subsection for such period; except that not more than 85 per centum of the principal of any such loan shall be paid pursuant to this paragraph.

(4) A borrower who fails to fulfill an agreement with the Secretary entered into under paragraph (1) or assurances provided pursuant to paragraph (2) (C) shall be liable to reimburse the Secretary for any payments made pursuant to paragraph (2) (A) or paragraph (3) in consideration of such agreement.

(i) Notwithstanding the amendment made by section 6(b) of the Nurse Training Act of 1971 to this section—

(A) any person who obtained one or more loans from a loan fund established under this subpart, who before the date of the enactment of the Nurse Training Act of 1971 became eligible for cancellation of all or part of such loans (including accrued interest) under this section (as in effect on the day before

such date), and who on such date was not engaged in a service for which loan cancellation was authorized under this section (as so in effect), may at any time elect to receive such cancellation in accordance with this subsection (as so in effect); and

(B) in the case of any person who obtained one or more loans from a loan fund established under this subpart and who on such date was engaged in a service for which cancellation of all or part of such loans (including accrued interest) was authorized under this section (as so in effect), this section (as so in effect) shall continue to apply to such person for purposes of providing such loan cancellation until he terminates such service.

Nothing in this subsection shall be construed to prevent any person from entering into an agreement for loan cancellation under subsection (h) (as amended by section 6(b)(2) of the Nurse Training Act of 1971).

(j) Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a nursing student, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

(1) failed to complete the nursing studies with respect to which such loan was made;

(2) is in exceptionally needy circumstances;

(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

(4) has not resumed, or cannot reasonably be expected to resume, such nursing studies within two years following the date upon which the applicant terminated the studies with respect to which such loan was made.

#### AUTHORIZATION OF APPROPRIATIONS FOR STUDENT LOAN FUNDS

42 U.S.C. 297c

SEC. 837. There are authorized to be appropriated for allotments under section 838 to schools of nursing for Federal capital contributions to their student loan funds established under section 835, \$25,000,000 for fiscal year 1976, \$30,000,000 for fiscal year 1977, and \$35,000,000 for fiscal year 1978. For fiscal year 1979, and for each of the next two succeeding fiscal years there are authorized to be appropriated such sums as may be necessary to enable students who have received a loan for any academic year ending before October 1, 1978, to continue or complete their education.

ALLOTMENTS AND PAYMENTS OF FEDERAL CAPITAL  
CONTRIBUTIONS

42 U.S.C. 297d

SEC. 838. (a) From the sums appropriated pursuant to section 837 for any fiscal year, the Secretary shall allot to each school an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such school bears to the total number of persons enrolled on a full-time basis in all schools of nursing in all the States. The number of persons enrolled on a full-time basis in schools of nursing for purposes of this section shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. For purposes of allotments under this section, a school of nursing also includes any school with which the Secretary has, prior to the time the allotment is made, entered into an agreement for establishment of a student loan fund under this subpart. Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to section 837 for that year shall be allotted among States and among schools within States in such manner as the Secretary determines will best carry out the purposes of this subpart.

(b)(1) The Secretary shall from time to time set dates by which schools of nursing in a State must file applications for Federal capital contributions from the allotment of such State under the first two sentences of subsection (a) of this section.

(2) If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State exceeds the amount of the allotment of such State for that fiscal year, the amounts to be paid to the loan fund of each such school shall be reduced to whichever of the following is the smaller: (A) the amount requested in its application or (B) an amount which bears the same ratio to the amount of the allotment of such State as the number of students who will be enrolled full time in such school during such fiscal year bears to the total number of students who will be enrolled full time in all such schools in such State during such year. Amounts remaining after allotment under the preceding sentence shall be redistributed in accordance with clause (B) of such sentence among schools which in their applications requested more than the amounts so paid to their loan funds, but with such adjustments as may be necessary to prevent the total paid to any such school's loan fund from exceeding the total so requested by it. If the total of the amounts requested for any fiscal year in such applications which are made by schools in a State is less than the amount of the allotment of such State for that fiscal year, the Sec-



retary may reallocate the remaining amount from time to time, on such date or dates as he may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year. For the purpose of this section, the number of students who graduated from secondary schools in each State during a fiscal year and the number of students who will be enrolled full time in schools of nursing in each State shall be estimated by the Secretary on the basis of the best information available to him; and in making such estimates, the number of students enrolled full time in any collegiate school of nursing shall be deemed to be twice their actual number.

(c) The Federal capital contributions to a loan fund of a school under this subpart shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

#### DISTRIBUTION OF ASSETS FROM LOAN FUNDS

42 U.S.C. 297e

SEC. 839. (a) After September 30, 1980, and not later than September 30, 1977, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to section 835(b) by each school as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of September 30, 1980, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 835(b) (2) (A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 835(b) (2) (B).

(2) The remainder of such balance shall be paid to the school.

(b) After December 31, 1980, each school with which the Secretary has made an agreement under this subpart shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after September 30, 1980, in payment of principal or interest on loans made from the loan fund established pursuant to such agreement as was determined for the Secretary under subsection (a).

#### ADMINISTRATIVE PROVISIONS

42 U.S.C. 297g

SEC. 840. The Secretary may agree to modifications of agreements made under this subpart, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.

## TRANSFERS TO SCHOLARSHIP PROGRAM

SEC. 841. Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for Federal capital contributions under an agreement under this part, or such larger percentage thereof as the Secretary may approve, may be transferred to the sums available to the school under subpart III of this part to be used for the same purpose as such sums. In the case of any such transfer, the amount of any funds which the school deposited in its student loan fund pursuant to section 835(b)(2)(B) with respect to the amount so transferred may be withdrawn by the school from such fund. 42 U.S.C. 297h

## Subpart III—Scholarship Grants to Schools of Nursing

## SCHOLARSHIP GRANTS

SEC. 845. (a) The Secretary shall make grants as provided in this section to each public or other nonprofit school of nursing for scholarships to be awarded annually by such school to students thereof. 42 U.S.C. 297j

(b) The amount of the grant under subsection (a) for the fiscal year ending June 30, 1976, and for each of the next two fiscal years to each such school shall be equal to \$3,000 multiplied by one-tenth of the number of full-time students of such school. For the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, the grant under subsection (a) shall be such amount as may be necessary to enable such school to continue making payments under scholarship awards to students who initially received such awards out of grants made to the school for fiscal years ending before October 1, 1978.

(c) (1) Scholarships may be awarded by schools from grants under subsection (a)—

(A) only to individuals who have been accepted by them for enrollment, and individuals enrolled and in good standing, as full-time or half-time students, in the case of awards from such grants for the fiscal year ending June 30, 1976, and for each of the next two fiscal years; and

(B) only to individuals enrolled and in good standing as full-time or half-time students who initially received scholarship awards out of such grants for a fiscal year ending prior to October 1, 1978, in the case of awards from such grants for the fiscal year ending September 30, 1979, and each of the two succeeding fiscal years.

(2) Scholarships from grants under subsection (a) for any school year shall be awarded only to students of

exceptional financial need who need such financial assistance to pursue a course of study at the school for such year. Any such scholarship awarded for a school year shall cover such portion of the student's tuition, fees, books, equipment, and living expenses at the school making the award, but not to exceed \$2,000 for any year in the case of any student, as such school may determine the student needs for such year on the basis of his requirements and financial resources.

(d) Grants under subsection (a) shall be made in accordance with regulations prescribed by the Secretary after consultation with the National Advisory Council on Nurse Training.

(e) Grants under subsection (a) may be paid in advance or by way of reimbursement, and at such intervals as the Secretary may find necessary; and with appropriate adjustments on account of overpayments or underpayments previously made.

#### TRANSFERS TO STUDENT LOAN PROGRAM

42 U.S.C. 297k

SEC. 846. Not to exceed 20 per centum of the amount paid to a school from the appropriation for any fiscal year for scholarships under section 845, or such larger percentage thereof as the Secretary may approve for such school for such year, may be transferred to the student loan fund of the school established under an agreement under section 835. Funds transferred under this section to such a student loan fund shall be considered as part of the Federal capital contributions to such fund.

#### PART C—GENERAL

##### NATIONAL ADVISORY COUNCIL ON NURSE TRAINING; REVIEW COMMITTEE

42 U.S.C. 298

SEC. 851. (a) There is hereby established a National Advisory Council on Nurse Training, consisting of the Secretary or his delegate, who shall be Chairman, and the Commissioner of Education, both of whom shall be ex officio members, and nineteen members appointed by the Secretary without regard to the civil service laws. Three of the appointed members shall be selected from full-time students enrolled in schools of nursing, four of the appointed members shall be selected from the general public and twelve shall be selected from among leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services. The student-members of the Council shall be appointed for terms of one year and shall be eligible for reappointment to the Council.



(b) The Council shall advise the Secretary or his delegate in the preparation of general regulations and with respect to policy matters arising in the administration of this title, and in the review of applications for construction projects under subpart I of part A, of applications under section 805, and of applications under subpart III of part A.

#### NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS

SEC. 852. Nothing contained in this title shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the personnel, curriculum, methods of instruction, or administration of any institution.

42 U.S.C. 298a

#### DEFINITIONS

SEC. 853. For purposes of this title—

42 U.S.C. 298b

(1) The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(2) The term "school of nursing" means a collegiate, associate degree, or diploma school of nursing.

(3) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

(4) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

(5) The term "diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school

or such hospital or university or such independent school is accredited.

(6) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Commissioner of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Commissioner of Education, except that a program, or a hospital, school, college, or university (or unit thereof), which is not, at the time of the application under this title, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this title in the following cases if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program, or the hospital, school, college, or university (or unit thereof), will meet the accreditation standards of such body or bodies (A) in the case of an applicant under subpart I of part A for a grant for a project for construction of a new school (which shall include a school that has not had a sufficient period of operation to be eligible for accreditation, (i) upon completion of such project and other construction projects (if any) then under construction or planned and to be commenced within a reasonable time, or (ii) if later, then prior to the beginning of the first academic year following the normal graduation date of the first entering class in such school; (B) in the case of a school applying for a grant under section 810 for any fiscal year, prior to the beginning of the first academic year following the normal graduation date of the class which is the entering class for such fiscal year (or is the first such class in such year if there is more than one); and (C) in the case of a school seeking an agreement under section 835 for establishment of a student loan fund, prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the agreement with such school is made under section 835; except that the provisions of this clause (3)<sup>1</sup> shall not apply for purposes of section 838. For the purpose of this paragraph, the Commissioner of Education shall publish a list of recognized accrediting bodies, and of State agencies, which he determines to be reliable authority as to the quality of training offered.

<sup>1</sup> Error in law. Reference should be to "this clause".

(7) The term "nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(8) The term "secondary school" means a school which provides secondary education, as determined under State law except that it does not include any education provided beyond grade 12.

(9) The terms "construction" and "cost of construction" include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees but not including the cost of acquisition of land (except in the case of acquisition of an existing building), off-site improvements, living quarters, or patient-care facilities, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered. For purposes of this paragraph, the term "buildings" includes interim facilities.

(10) The term "interim facilities" means teaching facilities designed to provide teaching space on a short-term (less than ten years) basis while facilities of a more permanent nature are being planned and constructed.

#### ADVANCE FUNDING

SEC. 854. Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this title may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated. 42 U.S.C. 298b-1

#### PROHIBITION AGAINST DISCRIMINATION BY SCHOOLS ON THE BASIS OF SEX

SEC. 855. The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of nursing unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this title with any school unless the school furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. 42 U.S.C. 298b-2



## DELEGATION

42 U.S.C. 298b-3

SEC. 856. The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices in the Department of Health, Education, and Welfare, except that the authority—

(1) to review, and prepare comments on the merit of, any application for a grant or contract under any program authorized by this title for purposes of presenting such application to the National Advisory Council on Nurse Training, or

(2) to make such a grant or enter into such a contract,

shall not be further delegated to any administrator of, or officer in, any regional office or offices in the Department.

# <sup>1</sup> TITLE IX—EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATIONS IN THE FIELDS OF HEART DISEASE, CANCER, STROKE, KIDNEY DISEASE, AND OTHER RELATED DISEASES

## PURPOSES

SEC. 900. The purposes of this title are—

42 U.S.C. 299

(a) through grants and contracts, to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals for research and training (including continuing education), for medical data exchange, and for demonstrations of patient care in the fields of heart disease, cancer, stroke, and kidney disease, and other related diseases;

(b) to afford to the medical profession and the medical institutions of the Nation, through such cooperative arrangements, the opportunity of making available to their patients the latest advances in the prevention, diagnosis, and treatment and rehabilitation of persons suffering from these diseases;

(c) to promote and foster regional linkages among health care institutions and providers so as to strengthen and improve primary care and the relationship between specialized and primary care; and

(d) by these means, to improve generally the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services, and to accomplish these ends without interfering with the patterns, or the methods of financing, of patient care or professional practice, or with the administration of hospitals, and in cooperation with practicing physicians, medical center officials, hospital administrators, and representatives from appropriate voluntary health agencies.

## AUTHORIZATIONS OF APPROPRIATIONS

SEC. 901. (a) There are authorized to be appropriated \$50,000,000 for the fiscal year ending June 30, 1966, \$90,-

42 U.S.C.  
299a(a)

<sup>1</sup> This title has been superseded by title XV. For transitional provision, see section 5(a)(2) of Public Law 93-641. Appendix, Vol. 1.

000,000 for the fiscal year ending June 30, 1967, \$200,000,000 for the fiscal year ending June 30, 1968, \$65,000,000 for the fiscal year ending June 30, 1969, \$120,000,000 for the next fiscal year, \$125,000,000 for the fiscal year ending June 30, 1971, \$150,000,000 for the fiscal year ending June 30, 1972, \$250,000,000 for the fiscal year ending June 30, 1973, and \$159,000,000 for the fiscal year ending June 30, 1974, for grants to assist public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private institutions and agencies in planning, in conducting feasibility studies, and in operating pilot projects for the establishment, of regional medical programs of research, training, and demonstration activities for carrying out the purposes of this title and for contracts to carry out the purposes of this title. Of the sums appropriated under this section for the fiscal year ending June 30, 1971, not more than \$15,000,000 shall be available for activities in the field of kidney disease. Of the sums appropriated under this section for any fiscal year ending after June 30, 1970, not more than \$5,000,000 may be made available in any such fiscal year for grants for new construction.

(b) A grant under this title shall be for part or all of the cost of the planning or other activities with respect to which the application is made, except that any such grant with respect to construction of, or provision of built-in (as determined in accordance with regulations) equipment for, any facility may not exceed 90 per centum of the cost of such construction or equipment.

(c) Funds appropriated pursuant to this title shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent it is, as determined in accordance with regulations, incident to those research, training, or demonstration activities which are encompassed by the purposes of this title. No patient shall be furnished hospital, medical, or other care at any facility incident to research, training, or demonstration activities carried out with funds appropriated pursuant to this title, unless he has been referred to such facility by a practicing physician or, where appropriate, a practicing dentist.

(d) Grants under this title to any agency or institution, or combination thereof, for a regional medical program may be used by it to assist in meeting the cost of participation in such program by any Federal hospital.

(e) At the request of any recipient of a grant under this title, the payments to such recipient may be reduced by the fair market value of any equipment, supplies, or services furnished by the Secretary to such recipient and by the amount of the pay, allowance, traveling expenses, and any other costs in connection with the detail of an officer or employee of the Government to the recipient



when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the regional medical program to which the grant under this title is made.

#### DEFINITIONS

SEC. 902. For the purpose of this title—

42 U.S.C.  
299b(a)

(a) the term “regional medical program” means a cooperative arrangement among a group of public or nonprofit private institutions or agencies engaged in research, training, prevention, diagnosis, treatment, and rehabilitation relating to heart disease, cancer, stroke, or kidney disease and, at the option of the applicant, other related diseases but only if such group—

(1) is situated within a geographic area, composed of any part or parts of any one or more States (which for purposes of this title includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands), which the Secretary determines, in accordance with regulations, to be appropriate for carrying out the purposes of this title;

(2) consists of one or more medical centers, one or more clinical research centers, and one or more hospitals; and

(3) has in effect cooperative arrangements among its component units which the Secretary finds will be adequate for effectively carrying out the purposes of this title.

(b) the term “medical center” means a medical school or other medical institution involved in post-graduate medical training and one or more hospitals affiliated therewith for teaching, research, and demonstration purposes.

(c) the term “clinical research center” means an institution (or part of an institution) the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high-quality diagnostic and treatment services for inpatients and outpatients.

(d) the term “hospital” means a hospital as defined in section 645(c) or other health facility in which local capability for diagnosis and treatment is supported and augmented by the program established under this title.

(e) the term “nonprofit” as applied to any institution or agency means an institution or agency

which is owned and operated by one or more non-profit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) the term "construction" means new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs, alteration, major repair (to the extent permitted by regulations), remodeling and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

#### GRANTS FOR PLANNING

42 U.S.C. 299c

SEC. 903. (a) The Secretary, upon the recommendation of the National Advisory Council on Regional Medical Programs established by section 905 (hereafter in this title referred to as the "Council"), is authorized to make grants to public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private agencies and institutions, and combinations thereof, to assist them in planning the development of regional medical programs.

(b) Grants under this section may be made only upon application therefor approved by the Secretary. Any such application may be approved only if it contains or is supported by—

(1) reasonable assurances that Federal funds paid pursuant to any such grant will be used only for the purposes for which paid and in accordance with the applicable provisions of this title and the regulations thereunder;

(2) reasonable assurances that the applicant will provide for such fiscal control and fund accounting procedures as are required by the Secretary to assure proper disbursement of and accounting for such Federal funds;

(3) reasonable assurances that the applicant will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) a satisfactory showing that the applicant has designated an advisory group, to advise the applicant (and the institutions and agencies participating in the resulting regional medical program) in formulating and carrying out the plan for the establish-

ment and operation of such regional medical program, which advisory group includes practicing physicians, medical center officials, hospital administrators, representatives from appropriate medical societies, voluntary or official health agencies, health planning agencies, and representatives of other organizations, institutions, and agencies concerned with activities of the kind to be carried on under the program (including as an ex officio member, if there is located in such region one or more hospitals or other health facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such advisory group as the representative of the hospitals or other health care facilities of such Administration which are located in such region) and members of the public familiar with the need for and financing of the services provided under the program, and which advisory group shall be sufficient in number to insure adequate community orientation (as determined by the Secretary).

#### GRANTS FOR ESTABLISHMENT AND OPERATION OF REGIONAL MEDICAL PROGRAMS

SEC. 904. (a) The Secretary, upon the recommendation of the Council, is authorized to make grants to public or nonprofit private universities, medical schools, research institutions, and other public or nonprofit private agencies and institutions, and combinations thereof, to assist in establishment and operation of regional medical programs, including construction and equipment of facilities in connection therewith. 42 U.S.C. 299d

(b) Grants under this section may be made only upon application therefor approved by the Secretary. Any such application may be approved only if it is recommended by the advisory group described in section 903 (b) (4), if opportunity has been provided, prior to such recommendation, for consideration of the application by each public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 314(b)<sup>1</sup> covering any area in which the regional medical program for which the application is made will be located, and if the application contains or is supported by reasonable assurances that—

(1) Federal funds paid pursuant to any such grant (A) will be used only for the purposes for which paid and in accordance with the applicable provisions of this title and the regulations there-

<sup>1</sup> See footnote No. 1 on page 55.



under, and (B) will not supplant funds that are otherwise available for establishment or operation of the regional medical program with respect to which the grant is made;

(2) the applicant will provide for such fiscal control and fund accounting procedures as are required by the Secretary to assure proper disbursement of and accounting for such Federal funds;

(3) the applicant will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; and

(4) any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

#### NATIONAL ADVISORY COUNCIL ON REGIONAL MEDICAL PROGRAMS

42 U.S.C.  
299e(a)

SEC. 905. (a)<sup>1</sup> The Secretary may appoint, without regard to the civil service laws, a National Advisory Council on Regional Medical Programs. The Council shall consist of the Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs, who shall be the Chairman, the Chief Medical Director of the Veterans' Administration who shall be an ex officio member, and twenty members, not otherwise in the regular

<sup>1</sup> Sec. 107 of P.L. 91-515, which expanded the Council provided the following

(b) Of the persons first appointed under section 905(a) of the Public Health Service Act to serve as the four additional members of the National Advisory Council on Regional Medical Programs authorized by the amendment made by subsection (a) of this section—

- (1) one shall serve for a term of one year.
- (2) one shall serve for a term of two years,
- (3) one shall serve for a term of three years, and
- (4) one shall serve for a term of four years,

as designated by the Secretary of Health, Education, and Welfare at the time of appointment.

(c) Members of the National Advisory Council on Regional Medical Programs (other than the Surgeon General) in office on the date of enactment of this Act shall continue in office in accordance with the term of office for which they were last appointed to the Council.

full-time employ of the United States, who are leaders in the fields of the fundamental sciences, the medical sciences, health care administration, or public affairs. At least two of the appointed members shall be practicing physicians, one shall be outstanding in the study or health care of persons suffering from heart disease, one shall be outstanding in the study or health care of persons suffering from cancer, one shall be outstanding in the study or health care of persons suffering from stroke, one shall be outstanding in the study or health care of persons suffering from kidney disease, two shall be outstanding in the field of prevention of heart disease, cancer, stroke, or kidney disease, and four shall be members of the public.

(b) Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(c) The Council shall advise and assist the Secretary in the preparation of regulations for, and as to policy matters, arising with respect to, the administration of this title. The Council shall consider all applications for grants under this title and shall make recommendations to the Secretary with respect to approval of applications for and the amounts of grants under this title.

#### REGULATIONS

SEC. 906. The Secretary, after consultation with the Council shall prescribe general regulations covering the terms and conditions for approving applications for grants under this title and the coordination of programs assisted under this title with programs for training, research, and demonstrations relating to the same diseases assisted or authorized under titles of this Act or other Acts of Congress.

42 U.S.C. 299f

#### INFORMATION ON SPECIAL TREATMENT AND TRAINING CENTERS

SEC. 907. The Secretary shall establish, and maintain on a current basis, a list or lists of facilities in the United States equipped and staffed to provide the most advanced methods and techniques in the diagnosis and treatment of heart disease, cancer, stroke, or kidney disease, together

42 U.S.C. 299g

with such related information, including the availability of advanced specialty training in such facilities, as he deems useful, and shall make such list or lists and related information readily available to licensed practitioners and other persons requiring such information. To the end of making such list or lists and other information most useful, the Secretary shall from time to time consult with interested national professional organizations.

#### REPORT

42 U.S.C. 299h

SEC. 908. On or before June 30, 1967, the Surgeon General, after consultation with the Council, shall submit to the Secretary for transmission to the President and then to the Congress, a report of the activities under this title together with (1) a statement of the relationship between Federal financing and financing from other sources of the activities undertaken pursuant to this title, (2) an appraisal of the activities assisted under this title in the light of their effectiveness in carrying out the purposes of this title, and (3) recommendations with respect to extension or modification of this title in the light thereof.

#### RECORDS AND AUDIT

42 U.S.C.  
299i(a)

SEC. 909. (a) Each recipient of a grant or contract under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this title which are pertinent to any such grant.

#### MULTIPROGRAM SERVICES

42 U.S.C. 299j

SEC. 910. (a) To facilitate interregional cooperation and develop improved national capability for delivery of health services, the Secretary is authorized to utilize funds appropriated under this title to make grants to public or nonprofit private agencies and institutions or combinations thereof and to contract for—

- (1) programs, services, and activities of substantial use to two or more regional medical programs;
- (2) development, trial, or demonstration of meth-



ods for control of heart disease, cancer, stroke, kidney disease, or other related diseases;

(3) the collection and study of epidemiologic data related to any of the diseases referred to in paragraph (2);

(4) development of training specifically related to the prevention, diagnosis, or treatment of any of the diseases referred to in paragraph (2), or to the rehabilitation of persons suffering from any of such diseases; and for continuing programs of such training where shortage of trained personnel would otherwise limit application of knowledge and skills important to the control of any of such diseases; and

(5) the conduct of cooperative clinical field trials.

(b) The Secretary is authorized to assist in meeting the costs of special projects for improving or developing new means for the delivery of health services concerned with the diseases with which this title is concerned.

(c) The Secretary is authorized to support research, studies, investigations, training, and demonstrations designed to maximize the utilization of manpower in the delivery of health services.

## TITLE X—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PRO- GRAMS

### PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING SERVICES

42 U.S.C. 300

SEC. 1001. (a) The Secretary is authorized to make grants to and enter into contracts with public or non-profit private entities to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods (including natural family planning methods).

(b) In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance. Local and regional entities shall be assured the right to apply for direct grants and contracts under this section, and the Secretary shall by regulation fully provide for and protect such right.

(c) For the purpose of making grants and contracts under this section, there are authorized to be appropriated \$30,000,000 for the fiscal year ending June 30, 1971; \$60,000,000 for the fiscal year ending June 30, 1972; \$111,500,000 for the fiscal year ending June 30, 1973; \$111,500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; 115,000,000 for fiscal year 1976; \$115,000,000 for the fiscal year ending September 30, 1977; and \$136,400,000 for the fiscal year ending September 30, 1978.

### FORMULA GRANTS TO STATES FOR FAMILY PLANNING SERVICES

42 U.S.C. 300a

SEC. 1002. (a) The Secretary is authorized to make grants, from allotments made under subsection (b), to State health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. No grant may be made to a State health authority under this section unless such authority has submitted, and had approved by the Secretary, a State plan for a coordinated and comprehensive program of family planning services.

(b) The sums appropriated to carry out the provisions of this section shall be allotted to the States by the Secretary on the basis of the population and the financial need of the respective States.

(c) For the purposes of this section, the term "State" includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) For the purpose of making grants under this section, there are authorized to be appropriated \$10,000,000 for the fiscal year ending June 30, 1971; \$15,000,000 for the fiscal year ending June 30, 1972; and \$20,000,000 for the fiscal year ending June 30, 1973.

#### TRAINING GRANTS AND CONTRACTS

SEC. 1003. (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to provide the training for personnel to carry out family planning service programs described in section 1001 or 1002.

42 U.S.C.  
300a-1

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated \$2,000,000 for the fiscal year ending June 30, 1971; \$3,000,000 for the fiscal year ending June 30, 1972; \$4,000,000 for the fiscal year ending June 30, 1973; and \$3,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; \$4,000,000 for fiscal year 1976; \$5,000,000 for the fiscal year ending September 30, 1977; and \$3,000,000 for the fiscal year ending September 30, 1978.

#### RESEARCH

SEC. 1004. (a) The Secretary may—

42 U.S.C.  
300a-2

(1) conduct, and

(2) make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals for projects for, research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population.

(b)(1) To carry out subsection (a) there are authorized to be appropriated \$55,000,000 for fiscal year 1976, \$60,000,000 for the fiscal year ending September 30, 1977, and \$68,500,000 for the fiscal year ending September 30, 1978.

(2) No funds appropriated under any provision of this Act (other than this subsection) may be used to conduct or support the research described in subsection (a) or for the administration of this section.

#### INFORMATIONAL AND EDUCATIONAL MATERIALS

SEC. 1005. (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to assist in developing and making available family

42 U.S.C.  
300a-3



planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated \$750,000 for the fiscal year ending June 30, 1971; \$1,000,000 for the fiscal year ending June 30, 1972; \$1,250,000 for the fiscal year ending June 30, 1973; \$909,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; \$2,000,000 for fiscal year 1976; \$2,500,000 for the fiscal year ending September 30, 1977; and \$600,000 for the fiscal year ending September 30, 1978.

#### REGULATIONS AND PAYMENTS

42 U.S.C.  
300a-4

SEC. 1006. (a) Grants and contracts made under this title shall be made in accordance with such regulations as the Secretary may promulgate. The amount of any grant under any section of this title shall be determined by the Secretary; except that no grant under any such section for any program or project for a fiscal year beginning after June 30, 1975, may be made for less than 90 per centum of its costs (as determined under regulations of the Secretary) unless the grant is to be made for a program or project for which a grant was made (under the same section) for the fiscal year ending June 30, 1975, for less than 90 per centum of its costs (as so determined), in which case a grant under such section for that program or project for a fiscal year beginning after that date may be made for a percentage which shall not be less than the percentage of its costs for which the fiscal year 1975 grant was made.

(b) Grants under this title shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grants will be effectively utilized for the purposes for which made.

(c) A grant may be made or contract entered into under section 1001 or 1002 for a family planning service project or program only upon assurances satisfactory to the Secretary that—

(1) priority will be given in such project or program to the furnishing of such services to persons from low-income families; and

(2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge.

For purposes of this subsection, the term "low-income family" shall be defined by the Secretary in accordance with such criteria as he may prescribe so as to insure that

economic status shall not be a deterrent to participation in the programs assisted under this title.

#### VOLUNTARY PARTICIPATION

SEC. 1007. The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title (whether by grant or contract) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information.

42 U.S.C.  
300a-5

#### PROHIBITION OF ABORTION

SEC. 1008. None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

42 U.S.C.  
300a-6

#### PLANS AND REPORTS

SEC. 1009. (a) Not later than seven months after the close of each fiscal year, the Secretary shall make a report to the Congress setting forth a plan to be carried out over the next five fiscal years for—

(1) extension of family planning services to all persons desiring such services,

(2) family planning and population research programs,

(3) training of necessary manpower for the programs authorized by this title and other Federal laws for which the Secretary has responsibility and which pertain to family planning, and

(4) carrying out the other purposes set forth in this title and the Family Planning Services and Population Research Act of 1970.

(b) Such a plan shall, at a minimum, indicate on a phased basis—

(1) the number of individuals to be served by family planning programs under this title and other Federal laws for which the Secretary has responsibility, the types of family planning and population growth information and educational materials to be developed under such laws and how they will be made available, the research goals to be reached under such laws, and the manpower to be trained under such laws;

(2) an estimate of the costs and personnel requirements needed to meet the purposes of this title and other Federal laws for which the Secretary has responsibility and which pertain to family planning programs; and

(3) the steps to be taken to maintain a systematic reporting system capable to yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) Each report submitted under subsection (a) shall—

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan contained in the previous such report;

(2) indicate steps being taken to achieve the objectives during the fiscal years covered by the plan contained in such report and any revisions to plans in previous reports necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan contained in such report.



## TITLE XI—GENETIC DISEASES, HEMOPHILIA PROGRAMS, AND SUDDEN INFANT DEATH SYNDROME

### PART A—GENETIC DISEASES

#### TESTING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

SEC. 1101. (a) (1) The Secretary, through an identifiable administrative unit within the Department of Health, Education, and Welfare, may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects to establish and operate voluntary genetic testing and counseling programs primarily in conjunction with other existing health programs, including programs assisted under title V of the Social Security Act. 42 U.S.C. 300b

(2) The Secretary shall carry out, through an identifiable administrative unit within the Department of Health, Education, and Welfare, a program to develop information and educational materials relating to genetic diseases and to disseminate such information and materials to persons providing health care, to teachers and students, and to the public generally in order to most rapidly make available the latest advances in the testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. The Secretary may, under such program, make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the development and dissemination of such materials.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated \$30,000,000 for fiscal year 1976, \$30,000,000 for fiscal year 1977, and \$30,000,000 for fiscal year 1978.

#### RESEARCH PROJECT GRANTS AND CONTRACTS

SEC. 1102. In carrying out section 301, the Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) basic or applied research leading to the understanding, diagnosis, treatment, and control of genetic diseases, (2) planning, establishing, demonstrating, and developing special pro- 42 U.S.C.  
300b-1

grams for the training of genetic counselors, social and behavioral scientists, and other health professionals, (3) the development of programs to educate practicing physicians, other health professionals, and the public regarding the nature of genetic processes, the inheritance patterns of genetic diseases, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic diseases, and (4) the development of counseling and testing programs and other programs for the diagnosis, control, and treatment of genetic diseases. In making grants and entering into contracts for projects described in clause (1) of the preceding sentence, the Secretary shall give priority to applications for such grants or contracts which are submitted for research on sickle cell anemia and for research on Cooley's anemia.

#### VOLUNTARY PARTICIPATION

42 U.S.C.  
300b-2

SEC. 1103. The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

#### APPLICATIONS; ADMINISTRATION OF GRANTS AND CONTRACT PROGRAMS

42 U.S.C.  
300b-3

SEC. 1104. (a) A grant or contract under this part may be made upon application submitted to the Secretary at such time, in such manner, and containing and accompanied by such information, as the Secretary may require. Each applicant shall—

(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

(2) provide for strict confidentiality of all test results, medical records, and other information regarding testing, diagnosis, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) gives informed consent to be released, or (B) statistical data compiled without reference to the identity of any such patient;

(3) provide for community representation where appropriate in the development and operation of voluntary genetic testing or counseling programs funded by a grant or contract under this part;

(4) in the case of an applicant for a grant or contract under section 1101(a)(1) for the delivery of services, provide assurances satisfactory to the Secretary that (A) the services for community-wide testing and counseling to be provided under the pro-

gram for which the application is made (i) will take into consideration widely prevalent diseases with a genetic component and high-risk population groups in which certain genetic diseases occur, and (ii) where appropriate will be directed especially but not exclusively to persons who are entering their child-producing years, and (B) appropriate arrangements will be made to provide counseling to persons found to have a genetic disease and to persons found to carry a gene or chromosome which may cause a deleterious effect in their offspring; and

(5) establish fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of Federal funds paid to the applicant under this part.

(b) In making any grant or entering into any contract for testing and counseling programs under section 1101, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons who will benefit from and are in need of the services provided under such programs.

(c) In making grants and entering into contracts for any fiscal year under section 301 for projects described in section 1102 or under section 1101 the Secretary shall give special consideration to applications from entities that received grants from, or entered into contracts with, the Secretary for the preceding fiscal year for the conduct of comprehensive sickle cell centers or sickle cell screening and education clinics.

#### PUBLIC HEALTH SERVICE FACILITIES

SEC. 1105. The Secretary shall establish a program within the Service to provide voluntary testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. Services under such program shall be made available through facilities of the Service to persons requesting such services, and the program shall provide appropriate publicity of the availability and voluntary nature of such services.

42 U.S.C.  
300b-4

#### REPORTS

SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

42 U.S.C.  
300b-5

(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.



## PART B—SUDDEN INFANT DEATH SYNDROME

## SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS

42 U.S.C.  
300c-11

SEC. 1121. (a) The Secretary, through the Assistant Secretary for Health, shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, to public safety officials, and to the public generally.

(b) (1) The Secretary may make grants to public and nonprofit private entities, and enter into contracts with public and private entities, for projects which include both—

(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes of sudden infant death syndrome; and

(B) the provision of information and counseling to families affected by sudden infant death syndrome.

(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. Each application shall—

(A) provide that the project for which assistance under this subsection is sought will be administered by or under supervision of the applicant;

(B) provide for appropriate community representation in the development and operation of such project;

(C) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

(D) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

(3) Payments under grants under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(4) Contracts under this subsection may be entered into without regard to sections 3648 through 3709 of the Revised Statutes (31 U.S.C. 529; 44 U.S.C. 5).

(5) For the purpose of making payments pursuant to grants and contracts under this subsection, there are authorized to be appropriated \$2,000,000 for the fiscal year ending 1975, \$3,000,000 for the fiscal year ending 1976, \$4,000,000 for the fiscal year ending September 30, 1977, and \$3,650,000 for the fiscal year ending September 30, 1978.

(c) The Secretary shall submit, not later than January 1, 1976, a comprehensive report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the administration of this section and the results obtained from the programs authorized by it.

## PART C—HEMOPHILIA PROGRAMS

### TREATMENT CENTERS

SEC. 1131. (a) The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects for the establishment of comprehensive hemophilia diagnostic and treatment centers. A center established under this subsection shall provide— 42 U.S.C. 300c-21

(1) access to the services of the center for all individuals suffering from hemophilia who reside within the geographic area served by the center;

(2) programs for the training of professional and paraprofessional personnel in hemophilia research, diagnosis, and treatment;

(3) a program for the diagnosis and treatment of individuals suffering from hemophilia who are being treated on an outpatient basis;

(4) a program for association with providers of health care who are treating individuals suffering from hemophilia in areas not conveniently served directly by such center but who are more conveniently (as determined by the Secretary) served by it than by the next geographically closest center;

(5) programs of social and vocational counseling for individuals suffering from hemophilia; and

(6) individualized written comprehensive care programs for each individual treated by or in association with such center.

(b) No grant or contract may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(c) An application for a grant or contract under subsection (a) shall contain assurances satisfactory to the Secretary that the applicant will serve the maximum number of individuals that its available and potential resources will enable it to effectively serve.

(d) In considering applications for grants and contracts under subsection (a) for projects to establish hemophilia diagnostic and treatment centers, the Secretary shall—

(1) take into account the number of persons to be served by the programs to be supported by such centers and the extent to which rapid and effective use will be made by such centers of funds under such grants and contracts, and

(2) give priority to projects for centers which will operate in areas which the Secretary determines have the greatest number of persons in need of the services provided by such centers.

(c) Contracts may be entered into under subsection (a) without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(f) There are authorized to be appropriated to make payments under grants and contracts under subsection (a) \$3,000,000 for fiscal year 1976, \$4,000,000 for the fiscal year ending September 30, 1977, and \$4,550,000 for the fiscal year ending September 30, 1978.

#### BLOOD SEPARATION CENTERS

42 U.S.C. 300c-22

SEC. 1132. (a) The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects to develop and expand, within existing facilities, blood-separation centers to separate and make available for distribution blood components to providers of blood services and manufacturers of blood fractions. For purposes of this section—

(1) the term “blood components” means those constituents of whole blood which are used for therapy and which are obtained by physical separation processes which result in licensed products such as red blood cells, platelets, white blood cells, AHF-rich plasma, fresh-frozen plasma, cryoprecipitate, and single unit plasma for infusion; and

(2) the term “blood fractions” means those constituents of plasma which are used for therapy and which are obtained by licensed fractionation processes presently used in manufacturing which result in licensed products such as normal serum albumin, plasma, protein fraction, prothrombin complex, fibrinogen, AHF concentrate, immune serum globulin, and hyperimmune globulins.

(b) In the event the Secretary finds that there is an insufficient supply of blood fractions available to meet the needs for treatment of persons suffering from hemophilia, and that public and other nonprofit private centers already engaged in the production of blood fractions could alleviate such insufficiency with assistance under this subsection, he may make grants not to exceed \$500,000 to such centers for the purposes of alleviating the insufficiency.



(c) No grant or contract may be made under subsection (a) or (b) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

(d) Contracts may be entered into under subsection (a) without regard to section 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(e) For the purpose of making payments under grants and contracts under subsections (a) and (b), there are authorized to be appropriated \$4,000,000 for fiscal year 1976, \$5,000,000 for the fiscal year ending September 30, 1977, and \$3,450,000 for the fiscal year ending September 30, 1978.

## TITLE XII—EMERGENCY MEDICAL SERVICES SYSTEMS

### DEFINITIONS

#### PART A—ASSISTANCE FOR EMERGENCY MEDICAL SERVICES SYSTEMS

42 U.S.C.  
300d

SEC. 1201. For purposes of this part:

(1) The term “emergency medical services system” means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions (occurring either as a result of the patient’s condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

(2) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) The term “modernization” means the alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(4) The term “section 1521 State health planning and development agency” means the agency of a State designated under section 1521(b)(3).

(5) The term “section 1515 health systems agency” means a health systems agency designated under section 1515, and the term “health systems plan” means a health systems plan referred to in section 1513(b)(2).

#### GRANTS AND CONTRACTS FOR FEASIBILITY STUDIES AND PLANNING

42 U.S.C.  
300d-1

SEC. 1202. (a) (1) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects which include both

studying the feasibility of and planning (A) the establishment and operation of an emergency medical services system, (B) the expansion and improvement of such a system, or (C) both.

(2) If the Secretary makes a grant or enters into a contract under this section for a study and planning project respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under paragraph (1) for such project, and he may not make a grant or enter into a contract under paragraph (1) for any other study and planning project respecting an emergency medical services system for the same area or for an area which includes (in whole or substantial part) such area.

(b) (1) The Secretary may make a grant to or enter into a contract with an eligible entity (as defined in section 1206(a)) with respect to an emergency medical services system for the purpose of enabling the entity—

(A) to study the feasibility of, or plan for, the expansion and improvement of such system to provide for the use in such system of advanced life-support techniques, or

(B) if such system is the system of a State for which system a study and planning grant or contract has been made or entered into under subsection (a) and if the entity is that State, to update the plan of such system to improve the delivery of emergency medical services in rural areas and to medically underserved populations of the State.

(2) If the Secretary makes a grant or enters into a contract under paragraph (1) respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under paragraph (1) respecting such system, or respecting any other such system for the same area or for an area which includes (in whole or substantial part) such area.

(c) An eligible entity which has received a grant from or entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 1209) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of such grant or contract not later than one year after the date the grant was made or the contract was entered into, as the case may be.

(d) An application for a grant or contract under this section shall—

(1) demonstrate to the satisfaction of the Secretary the need of the area for the emergency medical services system for which the application is made;



(2) contain assurances satisfactory to the Secretary that the applicant is qualified to plan an emergency medical services system for such area; and

(3) contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation (A) with each section 1515 health systems agency whose health systems plan covers or will cover (in whole or in part) such area, and (B) with any emergency medical services council or other entity responsible for review and evaluation of the provision of emergency medical services in such area.

(e) The amount of any grant under this section shall be determined by the Secretary.

(f) The Secretary may not obligate or expend in any fiscal year for grants and contracts made or entered into under subsection (b)(1) an amount greater than 50 per centum of the sums appropriated in such year for grants and contracts made or entered into under this section.

#### GRANTS AND CONTRACTS FOR ESTABLISHING AN INITIAL OPERATION

42 U.S.C.  
300d-2

SEC. 1203. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for the establishment and initial operation of emergency medical services systems.

(b) Special consideration shall be given to applications for grants and contracts for systems which will coordinate with statewide emergency medical services system.

(c)(1) Grants and contracts under this section may be used for the modernization of facilities for emergency medical services systems and other costs of establishment and initial operation.

(2) Each grant or contract under this section shall be made for costs of establishment and operation in the year for which the grant or contract is made. If a grant or contract is made under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of the first at least nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the establishment and operation of the system in accordance with the plan contained in its application (pursuant to section 1206(b)(4)) for the first grant or contract.

(3) No grant or contract may be made under this section for the fiscal year ending September 30, 1979, to an entity which did not receive a grant or contract under this section for the preceding fiscal year.

(4) Subject to section 1206(f)—

(A) the amount of the first grant or contract under this section for an emergency medical services

system may not exceed (i) 50 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the establishment and operation costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

(5) In considering applications which demonstrate exceptional need for financial assistance, the Secretary shall give special consideration to applications submitted for emergency medical services systems for rural areas (as defined in regulations of the Secretary).

(d) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances of the participation in and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system's service area.

(e) (1) A first grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances, from the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of each such bodies' support of and cooperation with the system.

(2) A second grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

(A) the Secretary has made the required determination under subsection (c) (2);

(B) the application for such grant or contract includes specific plans for the step-by-step achievement of compliance with each of the requirements of section 1206(b)(4)(C) within the period specified in section 1206(b)(4)(B)(i); and

(C) the application for such grant or contract includes assurances, evidenced by copies of formal resolutions, proclamations, or other acts of the executive or legislative governmental bodies of political sub-

divisions located in the system's service area which govern a substantial proportion of the population residing in such area, of such bodies'—

(i) continued support and cooperation with the system, and

(ii) financial support of the system, in the year after the conclusion of the period of support under the grant or contract, sufficient to maintain the system at the level at which such system is to be maintained during the period of the grant or contract.

(f) An eligible entity which has received a grant from or has entered into a contract with the Secretary under this section shall submit to the Secretary and the Inter-agency Committee on Emergency Medical Services (established under section 1209) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of grants made to or contracts entered into with the entity under this section not later than one year after the completion of the second such grant or contract under this section.

#### GRANTS AND CONTRACTS FOR EXPANSION AND IMPROVEMENT

42 U.S.C.  
300d-3

SEC. 1204. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects for the expansion and improvement of emergency medical services systems, including the acquisition of equipment and facilities, the modernization of facilities, and other projects to expand and improve such systems.

(b) (1) Each grant or contract for a project under this section shall be made for the project's costs of expansion and improvement in the year for which the grant or contract is made or entered into. If a grant or contract is made or entered into under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of at least the first nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the expansion and improvement of the system in accordance with the plan contained in its application (pursuant to section 1206(b)(4)) for the first grant or contract.

(2) Subject to section 1206(f)—

(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an



exceptional need for financial assistance, 75 per centum of such costs for such year; and

(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

(c) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances of the participation and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system's service area.

(d)(1) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

(A) the application for such grant or contract includes specific plans for the step-by-step achievement of compliance with each of the requirements of section 1206(b)(4)(C) within the period specified in section 1206(b)(4)(B)(i); and

(B) the application for such grant or contract includes assurances, evidenced by copies of formal resolutions, proclamations, or other acts of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of such bodies'—

(i) support and cooperation with the system, and

(ii) endorsement and support of a specific financial plan which provides for the maintenance of the financial support of the system, after the conclusion of the period of the grant or contract, at the level required to maintain the level of expanded or improved activity to be achieved during the period of the grant or contract.

(2) A second grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

(A) the Secretary has made the required determination under subsection (b)(1), and

(B) the application for such grant or contract includes assurances, of the executive or legislative

governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, that substantial progress is being made toward achieving the financial support to implement the plan described in paragraph (1) (B) (ii).

(e) An eligible entity which has received a grant from or has entered into a contract with the Secretary under this section shall submit to the Secretary and the Inter-agency Committee on Emergency Medical Services (established under section 1209) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of grants made to or contracts entered into with the entity under this section not later than one year after the completion of the second such grant or contract under this section.

#### GRANTS AND CONTRACTS FOR RESEARCH

42 U.S.C.  
300d-4

SEC. 1205. (a) The Secretary may make grants to and enter into contracts with public or private nonprofit entities, and enter into contracts with private entities and individuals, for the support of research in emergency medical techniques, methods, devices, and delivery. The Secretary shall give special consideration to applications for grants or contracts for research relating to the delivery of emergency medical services in rural areas and especially research which emphasizes the identification and utilization of techniques and methods to apply the results of such research to improve the delivery of emergency medical services in such areas.

(b) No grant may be made or contract entered into under this section for amounts in excess of \$35,000 unless the application therefor has been recommended for approval by an appropriate peer review panel designated or established by the Secretary. Any application for a grant or contract under this section shall be submitted in such form and manner, and contain such information, as the Secretary shall prescribe in regulations.

(c) The recipient of a grant or contract under this section shall make such reports to the Secretary as the Secretary may require. Such reports shall contain recommendations and a plan of action for applying the results of the research assisted by such grant or contract to improve the delivery of emergency medical services.

(d) (1) Before any grant or contract may be made or entered into by the Secretary under this section the Secretary shall consult, concerning such grant or contract, with the identifiable administrative unit described in section 1208.

(2) No regulation, guideline, funding priority, or application form shall be established under this section without the full participation in the development of such regulation, guideline, priority, or form, by the identifiable administrative unit described in section 1208.

#### GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS

SEC. 1206. (a) For purposes of sections 1202, 1203, and 1204, the term "eligible entity" means— 42 U.S.C.  
300d-5

- (1) a State,
- (2) a unit of general local government,
- (3) a public entity administering a compact or other regional arrangement or consortium, or
- (4) any other public entity and any nonprofit private entity.

(b) (1) (A) No grant or contract may be made under this part unless an application therefor has been submitted to, and approved by, the Secretary.

(B) No applicant may receive more than a total of five years of grant or contract assistance under this part, except that, in determining the number of years of grant or contract assistance which an applicant received under this part, the Secretary shall not include any period during which the applicant received grant or contract assistance under section 1202(b) (1) of section 1205.

(2) In considering applications submitted under this title, the Secretary shall give priority to applications submitted by the entities described in clauses (1), (2), and (3) of subsection (a).

(3) No application for a grant or contract under section 1202 may be approved unless—

(A) the application meets the application requirements of such section;

(B) in the case of an application submitted by a public entity administering a compact or other regional arrangement or consortium, the compact or other regional arrangement or consortium includes each unit of general local government of each standard metropolitan statistical area (as determined by the Office of Management and Budget) located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted;

(C) in the case of an application submitted by an entity described in clause (4) of subsection (a), such entity has provided a copy of its application to each entity described in clauses (1), (2), and (3) of such subsection which is located (in whole or in part) in the service area of the emergency medical services system for which the application is submitted and



has provided each such entity a reasonable opportunity to submit to the Secretary comments on the application;

(D) the—

(i) section 1521 State health planning and development agency of each State in which the service area of the emergency medical services system for which the application is submitted will be located, and

(ii) section 1515 health systems agency whose health systems plan covers or will cover (in whole or in part) the service area of such system, have had not less than thirty days (measured from the date a copy of the application was submitted to the agency by the applicant) in which to comment on the application;

(E) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this title; and

(F) the application is submitted in such form and such manner and contains such information (including specification of applicable provisions of law or regulations which restrict the full utilization of the training and skills of health professions and allied and other health personnel in the provision of health care services in such a system) as the Secretary shall prescribe in regulations.

(4) (A) No application for a grant or contract under section 1203 or 1204 may be approved by the Secretary unless (i) the application meets the requirements of the respective section and of subparagraphs (B) through (F) of paragraph (3), and (ii) except as provided in subparagraph (B) (ii), the applicant (I) demonstrates to the satisfaction of the Secretary that the emergency medical services system for which the application is submitted will, within the period specified in subparagraph (B) (i), meet each of the emergency medical services system requirements specified in subparagraph (C), and (II) provides in the application a plan satisfactory to the Secretary for the system to meet each such requirement within such period.

(B) (i) The period within which an emergency medical services system must meet each of the requirements specified in subparagraph (C) is the total period of eligibility for assistance under the section for which the application for assistance is made; except that if the applicant demonstrates to the satisfaction of the Secretary the inability of the applicant's emergency medical services system to meet one or more of such requirements within such period, the period (or periods) within which the system must meet such requirement (or requirements) is such period (or periods) as the Secretary may require.

(ii) If an applicant submits an application for a grant or contract under section 1203 or 1204 and demonstrates to the satisfaction of the Secretary the inability of the system for which the application is submitted to meet one or more of the requirements specified in subparagraph (C) within any specific period of time, the demonstration and plan prerequisites prescribed by clause (ii) of subparagraph (A) shall not apply with respect to such requirement (or requirements) and the applicant shall provide in his application a plan, satisfactory to the Secretary, for achieving appropriate alternatives to such requirement (or requirements).

(C) An emergency medical services system shall—

(i) include an adequate number of health professions, allied health professions, and other health personnel with appropriate training and experience;

(ii) provide for its personnel appropriate training (including clinical training) and continuing education programs which (I) are coordinated with other programs in the system's service area which provide similar training and education, and (II) emphasize recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel in such area;

(iii) join the personnel, facilities, and equipment of the system by a central communications system so that requests for emergency health care services will be handled by a communications facility which (I) utilizes emergency medical telephonic screening, (II) utilizes or, within such period as the Secretary prescribes will utilize, the universal emergency telephone number 911, (III) will have direct communication connections and interconnections with the personnel, facilities, and equipment of the system and with other appropriate emergency medical services systems, (IV) will have the capability to communicate with individuals having auditory handicaps and to communicate in the language of the predominant population groups with limited English-speaking ability in the system's service area, and (V) makes maximum use of communications equipment and systems acquired under any highway safety program approved under chapter 4 of title 23, United States Code, and of such equipment and system acquired under title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.);

(iv) include (making maximum use of vehicles acquired under any highway safety program approved under chapter 4 of title 23, United States Code) an adequate number of necessary ground, air, and water vehicles and other transportation facilities

to meet the individual characteristics of the system's service area—

(I) which vehicles and facilities meet appropriate standards relating to location, design, performance, and equipment, and

(II) the operators and other personnel for which vehicles and facilities meet appropriate training and experience requirements;

(v) include an adequate number of easily accessible emergency medical services facilities which are collectively capable of providing services on a continuous basis, which have appropriate non-duplicative and categorized capabilities, which meet appropriate standards relating to capacity, location, personnel, and equipment, and which are coordinated with other health care facilities of the system;

(vi) provide access (including appropriate transportation) to specialized critical medical care units in the system's service area, or, if there are no such units or an inadequate number of them in such area, provide access to such units in neighboring areas if access to such units is feasible in terms of time and distance;

(vii) provide for the effective utilization of the appropriate personnel, facilities, and equipment of each public safety agency providing emergency services in the system's service area;

(viii) be organized in a manner that provides persons who reside in the system's service area and who have no professional training or financial interest in the provision of health care with an adequate opportunity to participate in the making of policy for the system;

(ix) provide, without prior inquiry as to ability to pay, necessary emergency medical services to all patients requiring such services;

(x) provide for transfer of patients to facilities and programs which offer such followup care and rehabilitation as is necessary to effect the maximum recovery of the patient;

(xi) provide for a coordinated patient record-keeping system meeting appropriate standards established by the Secretary, which records shall cover the treatment of the patient from initial entry into the system through his discharge from it, and shall be consistent with ensuing patient records used in followup care and rehabilitation of the patient;

(xii) provide programs of public education and information in the system's service area (taking into account the needs of visitors to, as well as residents of, that area to know or be able to learn immediately the means of obtaining emergency medical services) which programs stress the general dissemination of



information regarding appropriate methods of medical self-help and first-aid and regarding the availability of first-aid training programs in the area;

(xiii) provide the Secretary with such information as he may require to conduct periodic, comprehensive, and independent reviews and evaluations of the extent and quality of the emergency health care services provided in the system's service area, and submit to the Secretary the results of any review or evaluation which may be conducted by such system of the extent and quality of the emergency health care services provided in the system's service area;

(xiv) have a plan to assure that the system will be capable of providing emergency medical services in the system's service area during mass casualties, natural disasters, or national emergencies; and

(xv) provide for the establishment of appropriate arrangements with emergency medical services systems or similar entities serving neighboring areas for the provision of emergency medical services on a reciprocal basis where access to such services would be more appropriate and effective in terms of the services available, time, and distance.

The Secretary shall by regulations prescribe standards and criteria for the requirements prescribed by this subparagraph. In prescribing such standards and criteria, the Secretary shall consider relevant standards and criteria prescribed by other public agencies and by private organizations.

(5) The Secretary shall provide technical assistance, as appropriate, to eligible entities as necessary for the purpose of their preparing applications or otherwise qualifying for or carrying out grants or contracts under sections 1202, 1203, or 1204, with special consideration for applicants in rural areas.

(c) Payments under grants and contracts under this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary determines will most effectively carry out this title.

(d) Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(e) No funds appropriated under any provision of this Act other than section 301, title IV, title VII, section 1207, or section 1221 may be used to make a new grant or contract in any fiscal year for a purpose for which a grant or contract is authorized by this part unless (1) all the funds authorized to be appropriated by section 1207(a) for such fiscal year have been appropriated and made available for obligation in such fiscal year, and (2) such new grant or contract is made in accordance

with the requirements of this part that would be applicable to such grant or contract if it was made under this part. For purposes of this subsection, the term "new grant or contract" means a grant or contract for a program or project for which an application was first submitted after the date of the enactment of the Act which makes the first appropriations under the authorizations contained in section 1207.

(f)(1) In determining the amount of any grant or contract under section 1203 or 1204, the Secretary shall take into consideration the amount of funds available to the applicant from Federal grant or contract programs under laws other than this Act for any activity which the applicant proposes to undertake in connection with the establishment and operation or expansion and improvement of an emergency medical services system and for which the Secretary may authorize the use of funds under a grant or contract under sections 1203 and 1204.

(2) The Secretary may not authorize the recipient of a grant or contract under section 1203 or 1204 to use funds under such grant or contract for any training program (other than basic training of emergency medical technicians, training of paramedics, and short-term specialized training or retraining of physicians, nurses, and other health care professionals) in connection with an emergency medical services system unless the applicant (A) has filed an application (as appropriate) under title VII or VIII for a grant or contract for such program and such application was not approved or was approved but for which no or inadequate funds were made available under such title, or (B) has demonstrated to the satisfaction of the Secretary that the filing of such an application would be futile or unreasonably burdensome.

#### AUTHORIZATION OF APPROPRIATIONS

42 U.S.C.  
300d-6

SEC. 1207. (a) (1) For the purpose of making payments pursuant to grants and contracts under sections 1202, 1203, and 1204, there are authorized to be appropriated \$30,000,000 for the fiscal year ending June 30, 1974, \$60,000,000 for the fiscal year ending June 30, 1975, \$35,000,000 for the fiscal year ending June 30, 1976, \$5,083,000 for the period beginning July 1, 1976, and ending September 30, 1976, \$45,000,000 for the fiscal year ending September 30, 1977, and \$55,000,000 for the fiscal year ending September 30, 1978; and for the purpose of making payments pursuant to grants and contracts under sections 1203 and 1204, there are authorized to be appropriated \$70,000,000 for the fiscal year ending September 30, 1979.

(2) Of the sums appropriated under paragraph (1) for any fiscal year, not less than 20 per centum shall be

made available for grants and contracts under this title for such fiscal year for emergency medical services systems which serve or will serve rural areas (as defined in regulations of the Secretary under section 1203(c)(5)).

(3) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1974, or the succeeding fiscal year—

(A) 15 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1202 (relating to feasibility studies and planning) for such fiscal year;

(B) 60 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1203 (relating to establishment and initial operation) for such fiscal year; and

(C) 25 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1204 (relating to expansion and improvement) for such fiscal year.

(4) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1976—

(A) 75 per centum of such sums shall be made available only for grants and contracts under section 1203 for such fiscal year, and

(B) 25 per centum of such sums shall be made available only for grants and contracts under section 1204 for such fiscal year.

(5)(A) Of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and for the succeeding fiscal year, at least  $2\frac{1}{2}$  per centum but not more than 5 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 1202.

(B) Of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years, (i) not less than 20 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 1203, and (ii) not less than 20 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 1204.

(b) For the purpose of making payments pursuant to grants and contracts under section 1205 (relating to research), there are authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1974, and for each of the next five fiscal years.

#### ADMINISTRATION

SEC. 1208. (a) The Secretary shall administer the program of grants and contracts (except for grants and contracts under section 1205) authorized by this part through an identifiable administrative unit specializing



in emergency medical services within the Department of Health, Education, and Welfare.

(b) Such administrative unit shall—

(1) be responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of emergency medical services systems, including data derived from reviews and evaluations of emergency medical services systems assisted under sections 1202, 1203, and 1204;

(2) publish suggested criteria for collecting necessary information for the evaluation of projects and programs funded under this title;

(3) participate fully in the development of regulations, guidelines, funding priorities, and application forms relating to activities carried out under sections 776, 1205, and 1221;

(4) be consulted in advance of the awarding of grants and contracts under section 776, 1205, and 1221;

(5) be consulted in advance of the issuance of regulations, guidelines, and funding priorities relating to research or training in the area of emergency medical services carried out under any other authority of this Act;

(6) provide technical assistance (with special consideration for applicants in rural areas) and monitoring with respect to grant and contract activities under sections 1202, 1203, 1204, and 1221; and

(7) provide for periodic, independent evaluations of the effectiveness of, and coordination between, the programs carried out under this part and the programs carried out under sections 776 and 1221.

(c) In addition, such administrative unit shall, through the Interagency Committee on Emergency Medical Services (established under section 1209)—

(1) study on a continuing basis (including evaluating the adequacy, technical soundness, and redundancy of) the roles, resources, and responsibilities of all Federal programs and activities relating to emergency medical services;

(2) annually update (A) the Federal emergency medical services funding and resource-sharing plan, (B) the description of sources of Federal support, and (C) the recommended uniform standards with respect to emergency medical services equipment and training, all initially developed and published by the Committee under section 1209(b);

(3) make recommendations to the Secretary respecting steps he might take, using the authorities available to him, to encourage States to implement the recommended uniform standards described in paragraph (2)(C); and

(4) make recommendations to the Secretary respecting the administration of, and regulations under, the programs of grants and contracts under this title.

Such unit shall report to the Congress the results of studies made under paragraph (1). The first such report shall be made not later than June 15, 1977, the second such report shall be made not later than February 1, 1978, and subsequent reports shall be made not later than February 1 of each year after 1978.

#### INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

SEC. 1209. (a) The Secretary shall establish an Interagency Committee on Emergency Medical Services. The Committee shall coordinate and provide for the communication and exchange of information among all Federal programs and activities relating to emergency medical services, and shall carry out its responsibilities under section 1208(c).

42 U.S.C.  
300d-8

(b) The Committee shall, not later than July 1, 1977, develop and publish:

(1) A coordinated, comprehensive Federal emergency medical services funding and resource-sharing plan, designed to promote the coordination between, and enhance the effectiveness of, Federal, State, and local funding and operation of programs and agencies relating to emergency medical services and related activities (including communication and transportation systems of public safety agencies).

(2) A description of sources of Federal support for the purchase of vehicles and communications equipment and for training activities related to emergency medical services.

(3) Recommended uniform standards of quality, health, and safety with respect to all equipment (including communications and transportation equipment) and training related to emergency medical services.

The plan described in paragraph (1) shall include a report containing recommendations for any legislation which would enhance the capability of Federal, State, and local governments to provide an integrated response in medical emergencies. The description described in paragraph (2) shall be disseminated to the regional offices of Federal agencies which provide financial support in the purchase of vehicles and equipment or in training activities related to emergency medical services for distribution to appropriate entities and the public.

(c) The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation,

the Department of Justice, the Department of Defense, the Veterans' Administration, the National Science Foundation, the Federal Communications Commission, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) and from the National Academy of Sciences, as the Secretary determines administer programs directly affecting the functions or responsibilities of emergency medical services systems, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

(d) Each appointed member of the Committee shall be appointed for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the President at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(e) Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) The Secretary shall make available to the Committee such staff, information (including copies of reports of reviews and evaluations of emergency medical services systems assisted under section 1202, 1203, or 1204), and other assistance as it may require to carry out its activities effectively.

#### ANNUAL REPORT

SEC. 1210. The Secretary shall prepare and submit annually to the Congress a report on the administration of this title. Each report shall include an evaluation of the adequacy of the provision of emergency medical services in the United States during the period covered by the



report, and evaluation of the extent to which the needs for such services are being adequately met through assistance provided under this title, and his recommendations for such legislation as he determines is required to provide emergency medical services at a level adequate to meet such needs. The first report under this section shall be submitted not later than September 30, 1974, and shall cover the fiscal year ending June 30, 1974. The report under this section covering the fiscal year ending June 30, 1976, shall also cover the period beginning July 1, 1976, and ending September 30, 1976, and shall be submitted to Congress not later than February 1, 1977. The report under this section covering the fiscal year ending September 30, 1977, and each report covering each subsequent fiscal year, shall be submitted to Congress not later than February 1, in the fiscal year following each such fiscal year.

## PART B—BURN INJURIES

### PROGRAMS RELATING TO BURN INJURIES

SEC. 1221. (a) (1) The Secretary may make grants to, and enter into contracts with, public or private non-profit entities for the support of, and may conduct, programs for the establishment, operation, and improvement of activities to (A) demonstrate the effectiveness of different methods for the treatment and rehabilitation of individuals injured by burns, (B) conduct research in the treatment and rehabilitation of such individuals, and (C) provide training in such treatment and rehabilitation and in such research.

42 U.S.C.  
300d-21

(2) The Secretary may enter into contracts with entities and individuals for the support of research in the treatment and rehabilitation of individuals injured by burns.

(b) No grant or contract may be made or entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be submitted in such form and manner and contain such information as the Secretary may require. In considering applications under this section, the Secretary shall give priority to applications for programs which (1) will provide services within a geographical area in which services are not currently being adequately provided, and (2) are in or accessible to the service area of an emergency medical services system (as defined in section 1201(1)).

(c) For purposes of carrying out subsection (a), there are authorized to be appropriated \$5,000,000 for the fiscal year ending September 30, 1977, \$7,500,000 for the fiscal year ending September 30, 1978, and \$10,000,000 for the fiscal year ending September 30, 1979.

## TITLE XIII—HEALTH MAINTENANCE ORGANIZATIONS

### REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

42 U.S.C. 300e

SEC. 1301. (a) For purposes of this title, the term "health maintenance organization" means a legal entity which (1) provides basic and supplemental health services to its members in the manner prescribed by subsection (b), and (2) is organized and operated in the manner prescribed by subsection (c).

(b) A health maintenance organization shall provide, without limitations as to time or cost other than those prescribed by or under this title, basic and supplemental health services to its members in the following manner:

(1) Each member is to be provided basic health services for a basic health services payment which (A) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (B) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (C) is fixed under a community rating system; and (D) may be supplemented by additional nominal payments which may be required for the provision of specific services (within the basic health services), except that such payments may not be required where or in such a manner that they serve (as determined under regulations of the Secretary) as a barrier to the delivery of health services. Such additional nominal payments shall be fixed in accordance with the regulations of the Secretary. A health maintenance organization may include a health service, defined as a supplemental health service by section 1302(2), in the basic health services provided its members for a basic health services payment described in the first sentence. In the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of clause (C) shall not apply to such entity until the expiration of the forty-eight month period beginning with the month following the month in which the entity became such a qualified health organization.

(2) For such payment or payments (hereinafter in this title referred to as "supplemental health services payments") as the health maintenance organization may require in addition to the basic health services payment, the organization may provide to each of its members any of the health services which are included in supplemental health services (as defined in section 1302(2)). Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system except that, in the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization.

(3) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the health maintenance organization, through a medical group (or groups), through an or individual practice association (or associations), through health professionals who have contracted with the health maintenance organization for the provision of such services, or through any combination of such staff, medical group (or groups), individual practice association (or associations), or health professionals under contract with the organization, except that this paragraph shall not apply in the case of (A) health professionals' services which the organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any basic health service provided a member of the health maintenance organization other than by such a health professional because it was medically necessary that the service be provided to the member before he could have it provided by such a health professional. A health maintenance organization may also, during the thirty-six month period beginning with the month following the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), provide basic and supplemental health services through an entity which but for the requirement of section 1302(4) (C) (i) would be a medical group for purposes of this title. After the expiration of such period, the organization may provide basic or supplemental health



services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity. A health maintenance organization may not, in any of its fiscal years, enter into contracts with health professionals or entities other than medical groups or individual practice associations if the amounts paid under such contracts for basic and supplemental health services exceed fifteen percent of the total amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services, or, if the health maintenance organization principally serves a rural area, thirty percent of such amount, except that this sentence does not apply to the entering into of contracts for the purchase of basic and supplemental health services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for purposes of this title. Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education). For purposes of this paragraph, the term "health professionals" means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.

(4) Basic health services (and only such supplemental health services as members have contracted for) shall within the area served by the health maintenance organization be available and accessible to each of its members promptly as appropriate and in a manner which assures continuity, and when medically necessary be available and accessible twenty-four hours a day and seven days a week. A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic or supplemental health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.

(c) Each health maintenance organization shall—

(1) have a fiscally sound operation and adequate provision against the risk of insolvency which is satisfactory to the Secretary;

(2) assume full financial risk on a prospective basis for the provision of basic health services, except that a health maintenance organization may obtain insurance or make other arrangements (A) for

the cost of providing to any member basic health services the aggregate value of which exceeds \$5,000 in any year, (B) for the cost of basic health services provided to its members other than through the organization because medical necessity required their provision before they could be secured through the organization, and (C) for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 115 per centum of its income for such fiscal year;

(3) enroll persons who are broadly representative of the various age, social, and income groups within the area it serves, except that in the case of a health maintenance organization which has a medically underserved population located (in whole or in part) in the area it serves, not more than 75 per centum of the members of that organization may be enrolled from the medically underserved population unless the area in which such population resides is also a rural area (as designated by the Secretary);

(4) have an open enrollment period in accordance with the provisions of subsection (d);

(d)(1)(A) A health maintenance organization which—

(i) has for at least 5 years provided comprehensive health services on a prepaid basis, or

(ii) has an enrollment of at least 50,000 members, shall have at least once during each fiscal year next following a fiscal year in which it did not have a financial deficit an open enrollment period (determined under subparagraph (B)) during which it shall accept individuals for membership in the order in which they apply for enrollment and, except as provided in paragraph (2), without regard to preexisting illness, medical condition, or degree of disability.

(B) An open enrollment period for a health maintenance organization shall be the lesser of—

(i) 30 days, or

(ii) the number of days in which the organization enrolls a number of individuals at least equal to 3 percent of its total net increase in enrollment (if any) in the fiscal year preceeding the fiscal year in which such period is held.

For the purpose of determining the total net increase in enrollment in a health maintenance organization, there shall not be included any individual who is enrolled in the organization through a group which had a contract for health care services with the health maintenance organization at the time that such health maintenance organization was determined to be a qualified health maintenance organization under section 1310.

(2) Notwithstanding the requirements of paragraph (1) a health maintenance organization shall not be required to enroll individuals who are confined to an institution because of chronic illness, permanent injury, or other infirmity which would cause economic impairment to the health maintenance organization if such individual were enrolled.

(3) A health maintenance organization may not be required to make the effective date of benefits for individuals enrolled under this subsection less than 90 days after the date of enrollment.

(4) The Secretary may waive the requirements of this subsection for a health maintenance organization which demonstrates that compliance with the provisions of this subsection would jeopardize its economic viability in its service area.

#### DEFINITIONS

42 U.S.C.  
300e-1

SEC. 1302. For purposes of this title:

(1) The term "basic health services" means—

(A) physician services (including consultant and referral services by a physician);

(B) inpatient and outpatient hospital services;

(C) medically necessary emergency health services;

(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

(F) diagnostic laboratory and diagnostic and therapeutic radiologic services;

(G) home health services; and

(H) preventive health services (including (i) immunizations, (ii) well-child care from birth, (iii) periodic health evaluations for adults, (iv) voluntary family planning services, (v) infertility services, and (vi) children's eye and ear examinations conducted to determine the need for vision and hearing correction).

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, podiatrist, or other health care personnel a health maintenance organization may provide such service through a dentist, optometrist, podiatrist, or other health care personnel (as the case may be) licensed to provide such service. For purposes of this paragraph, the term "home health services" means health



services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization. A health maintenance organization is authorized, in connection with the prescription of drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such service, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

(2) The term "supplemental health services" means—

(A) services of facilities for intermediate and long-term care;

(B) vision care not included as a basic health service;

(C) dental services not included as a basic health service;

(D) mental health services not included as a basic health service under paragraph (1)(D);

(E) long-term physical medicine and rehabilitative services (including physical therapy);

(F) the provision of prescription drugs prescribed in the course of the provision by the health maintenance organization of a basic health service or a service described in the preceding subparagraphs of this paragraph; and

(G) other health services which are not included as basic health services and which have been approved by the Secretary for delivery as supplemental health services.

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, podiatrist, or other health care personnel, a health maintenance organization may provide such service through an optometrist, dentist, podiatrist, or other health care personnel (as the case may be) licensed to provide such service. A health maintenance organization is authorized, in connection with the prescription or provision of prescription drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such services, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

(3) The term "member" when used in connection with a health maintenance organization means an individual who has entered into a contractual agreement, or on whose behalf a contractual arrangement has been entered

into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

(4) The term "medical group" means a partnership, association, or other group—

(A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, and podiatrists) as are necessary for the provision of health services for which the group is responsible;

(B) a majority of the members of which are licensed to practice medicine or osteopathy; and

(C) the members of which (i) as their principal professional activity engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility for the delivery of health services to members of a health maintenance organization; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other similar plan unrelated to the provision of specific health services; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group; and (v) establish an arrangement whereby a member's enrollment status is not known to the health professional who provides health services to the member.

(5) The term "individual practice association" means a partnership, corporation, association, or other legal entity which has entered into a services arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optometry, or other health profession in a State and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide—

(A) that such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(B) to the extent feasible (i) for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff, and (ii) for the arrangement and encouragement of the continuing education of such persons in the field of clinical medicine and related areas.

(6) The term "health systems agency" means an entity which is designated in accordance with section 1515 of this Act.

(7) The term "medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each State health planning and development agency which covers (in whole or in part) such urban or rural area or the area in which such population group resides, and (B) each health systems agency designated for a health service area which covers (in whole or in part) such urban or rural area or the area in which such population group resides.

(8) The term "community rating system" means a system of fixing rates of payments for health services. Under such a system rates of payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. The following differentials in rates of payments may be established under such system:

(A) Nominal differentials in such rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of members:

(i) Individual members (including their families).

(ii) Small groups of members (as determined under regulations of the Secretary).

(iii) Large groups of members (as determined under regulations of the Secretary).

(B) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers.

(C) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5, United States Code) or any health benefits program for employees of States, political subdivision of States, and other public entities.



(9) The term "non-metropolitan area" means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city whose population exceeds fifty thousand individuals.

#### GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

42 U.S.C.  
300e-2

SEC. 1303. (a) The Secretary may make grants to and enter into contracts with public or nonprofit private entities for projects for surveys or other activities to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations.

(b) An application for a grant or contract under this section shall contain—

(1) assurances satisfactory to the Secretary that, in conducting surveys or other activities with assistance under a grant or contract under this section, the applicant will (A) cooperate with each health systems agency designated for a health service area which covers (in whole or in part) the area for which the survey or other activity will be conducted, and (B) notify the medical society serving such area of such surveys or other activities; and

(2) such other information as the Secretary may by regulation prescribe.

(c) In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application or proposal is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population.

(d) (1) Except as provided in paragraph (2), the following limitations apply with respect to grants and contracts made under this section:

(A) If a project has been assisted with a grant or contract under subsection (a), the Secretary may not make any other grant or enter into any other contract under this section for such project.

(B) Any project for which a grant is made or contract entered into must be completed within twelve months from the date the grant is made or contract entered into.

(2) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for which a grant has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for

completion of the project if he determines that the additional grant or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

(e) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) shall be determined by the Secretary, except that (1) the amount to be paid by the United States under any single grant or contract for any project may not exceed \$75,000, and (2) the aggregate of the amounts to be paid by the United States for any project under such subsection under grants or contracts, or both, may not exceed the greater of (A) 90 per centum of the costs of such project (as determined under regulations of the Secretary), or (B) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants and contracts for such project should be determined by such greater percentage.

(f) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(g) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(h) Payments under grants and contracts under this section shall be made from appropriations made under section 1309(a).

(i) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (1) to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations which the Secretary determines may reasonably be expected to have after their development or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (2) the applications for which meet the requirements of this title for approval. Sums set aside in any fiscal year for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under this section in the succeeding fiscal year for any project, with priority being given to projects described in clause (1) of such sentence.

GRANTS, CONTRACTS, AND LOAN GUARANTEES FOR PLANNING  
AND FOR INITIAL DEVELOPMENT COSTS

42 U.S.C.  
300e-3

SEC. 1304. (a) The Secretary may—

(1) make grants to and enter into contracts with public or nonprofit private entities for planning projects for the establishment of health maintenance organizations or for the significant expansion of the membership of, or areas served by, health maintenance organizations; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

(A) nonprofit private entities for planning projects for the establishment or expansion of health maintenance organizations, or

(B) other private entities for such projects for health maintenance organizations which will serve medically underserved populations.

Planning projects assisted under this subsection shall include development of plans for the marketing of the services of the health maintenance organization.

(b) (1) The Secretary may—

(A) make grants to and enter into contracts with public or nonprofit private entities for projects for the initial development of health maintenance organizations; and

(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

(i) nonprofit private entities for projects for the initial development of health maintenance organizations, or

(ii) other private entities for such projects for health maintenance organizations which will serve medically underserved populations.

(2) For purposes of this section, the term "initial development" when used to describe a project for which assistance is authorized by this subsection includes significant expansion of the membership of, or the area served by, a health maintenance organization. Funds under grants and contracts under this subsection and under loans guaranteed under this subsection may only be utilized for such purposes as the Secretary may prescribe in regulations. Such purposes may include (A) the implementation of an enrollment campaign for such an organization, (B) the detailed design of and arrangements for the health services to be provided by such an organization, (C) the development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures, and the development of a capital financing program, (D) the recruitment of personnel who will engage in practice principally for



the health maintenance organization and the conduct of training activities for such personnel, and (E) the payment of architects' and engineers' fees.

(3) A grant or contract under this subsection may only be made or entered into for initial development costs in the one-year period beginning on the first day of the first month in which such grant or contract is made or entered into. The number of grants made for any initial development project under this subsection when added to the number of contracts entered into for such project under this subsection may not exceed three. A loan guarantee under this subsection may only be made for a loan (or loans) for such costs incurred in a period not to exceed three years.

(c) (1) An application for a grant, contract, or loan guarantee under subsection (a) for a planning project shall contain assurances satisfactory to the Secretary that in carrying out the planning project for which the grant, contract, or loan guarantee is sought, the applicant will (A) cooperate with each health systems agency designated for a health service area which covers (in whole or in part) the area proposed to be served by the health maintenance organization for which the planning project will be conducted, and (B) notify the medical society serving such area of the planning project.

(2) If the Secretary makes a grant or loan guarantee or enters into a contract under subsection (a) for a planning project for a health maintenance organization, he may, within the period in which the planning project must be completed, make a grant or loan guarantee or enter into a contract under subsection (b) for the initial development of that health maintenance organization; but no grant or loan guarantee may be made or contract entered into under subsection (b) for initial development of a health maintenance organization unless the Secretary determines that (A) sufficient planning for its establishment or expansion (as the case may be) has been conducted by the applicant for the grant, contract, or loan guarantee, and (B) the feasibility of establishing and operating, or of expanding, the health maintenance organization has been established by the applicant.

(d) In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population. In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for projects for health maintenance organizations which will serve medically underserved populations.

(e) (1) Except as provided in paragraph (2), the following limitations apply with respect to grants, loan guarantees, and contracts made under subsection (a) of this section:

(A) If a planning project has been assisted with grant, loan guarantee, or contract under subsection (a), the Secretary may not make any other planning grant or loan guarantee or enter into any other planning contract for such project under this section.

(B) Any project for which a grant or loan guarantee is made or contract entered into must be completed within twelve months from the date the grant or loan guarantee is made or contract entered into.

(2) The Secretary may not make more than one additional grant or loan guarantee or enter into not more than one additional contract for a planning project for which a grant or loan guarantee has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant, loan guarantee, or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

(f) (1) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) for a planning project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for a planning project which may be guaranteed under such subsection, shall be determined by the Secretary, except that (A) the amount to be paid by the United States under any single grant or contract, and the amount of principal of any single loan guaranteed under such subsection, may not exceed \$200,000, and (B) the aggregate of the amounts to be paid for any project by the United States under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

(2) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (b) for an initial development project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for an initial development project which may be guaranteed under such subsection, shall be determined by the Secretary; except that the amounts to

be paid by the United States for any initial development project under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the lesser of—

(A) \$1,000,000, or, in the case of a project for a health maintenance organization which will provide services to an additional service area (as defined by the Secretary) or which will provide services in one or more areas which are not contiguous, \$1,600,000, or

(B) an amount equal to the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(g) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(h) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(i) Payments under grants and contracts under this section shall be made from appropriations under section 1309(a).

(j) Loan guarantees under subsection (a) (2) for planning projects may be made through September 30, 1978; and loan guarantees under subsection (b) (1) (B) for initial development projects may be made through the fiscal year ending September 30, 1979.

(k) (1) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under subsection (a) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) to plan the establishment or expansion of health maintenance organizations which the Secretary determines may reasonably be expected to have after their establishment or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this title for approval. Sums set aside in any fiscal year for projects described in the preceding sentence but not obligated in such fiscal year for grants



and contracts under subsection (a) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for any project, with priority being given to projects described in clause (A) of such sentence.

(2) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under subsection (b) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) for the initial development of health maintenance organizations which the Secretary determines may reasonably be expected to have after their initial development not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this title for approval. Sums set aside in any fiscal year for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (b) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for any project, with priority being given to projects described in clause (A) of such sentence.

#### LOANS AND LOAN GUARANTEES FOR INITIAL OPERATION COSTS

42 U.S.C.  
300e-4

##### SEC. 1305. (a) The Secretary may—

(1) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs during a period not to exceed the first sixty months of their operation exceed their revenues in that period;

(2) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs, which the Secretary determines are attributable to significant expansion in their membership or area served and which are incurred during a period not to exceed the first sixty months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

(A) nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or

(B) other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population.

No loan or loan guarantee may be made under this subsection for the operating costs of a health maintenance organization unless the Secretary determines that the organization has made all reasonable attempts to meet such costs.

(b)(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under this section for a health maintenance organization may not exceed \$2,500,000. In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed \$1,000,000.

(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made or with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

(c) Loans under this section shall be made from the fund established under section 1308(e).

(d) No loan may be made or guaranteed under this section after September 30, 1980.

(e) Of the sums used for loans under this section in any fiscal year from the loan fund established under section 1308(e), not less than 20 per centum shall be used for loans for projects (1) for the initial operation of health maintenance organizations which the Secretary determines have not less than 66 per centum of their membership drawn from residents of nonmetropolitan areas, and (2) the applications for which meet the requirements of this title for approval.

(f) In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for health maintenance organizations which will serve medically underserved populations.

#### APPLICATION REQUIREMENTS

SEC. 1306. (a) No grant, contract, loan, or loan guarantee may be made under this title unless an application therefor has been submitted to and approved by the Secretary.

42 U.S.C.  
300e-5

(b) The Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this title unless—

(1) in the case of an application for assistance under section 1303 or 1304, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee, such application meets the requirements of section 1308;

(2) he determines that the applicant making the application would not be able to complete the project

or undertaking for which the application is submitted without the assistance applied for;

(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) methods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 1301(c), (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

(4) contains or is supported by assurances satisfactory to the Secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

(5) each health systems agency designated for a health service area which covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted:

(6) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this title, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed



and operated such project in accordance with the requirements of this title and with the plans contained in previous applications for such assistance;

(7) the application contains such assurances as the Secretary may require respecting the intent and the ability of the applicant to meet the requirements of paragraphs (1) and (2) of section 1301(b) respecting the fixing of basic health services payments and supplemental health services payments under a community rating system; and

(8) the application is submitted in such form and manner, and contains such additional information, as the Secretary shall prescribe in regulations.

An organization making multiple applications for more than one grant, contract, loan, or loan guarantee under this title, simultaneously or over the course of time, shall not be required to submit duplicate or redundant information but shall be required to update the specifications (required by paragraph (3)) respecting the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe.

(c) The Secretary shall by regulation establish standards and procedures for health systems agencies to follow in reviewing and commenting on applications for grants, contracts, loans, and loan guarantees under this title.

#### ADMINISTRATION OF ASSISTANCE PROGRAMS

SEC. 1307. (a) (1) Each recipient of a grant, contract, loan, or loan guarantee under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of the grant, contract, or loan (directly made or guaranteed), the total cost of the undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

42 U.S.C.  
300e-6

(2) The Secretary, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of a grant, contract, loan, or loan guarantee under this title which relate to such assistance.

(b) Upon expiration of the period for which a grant, contract, loan, or loan guarantee was provided an entity under this title, such entity shall make a full and complete report to the Secretary in such manner as he may by regulation prescribe. Each such report shall contain, among such other matters as the Secretary may by regulation require, descriptions of plans, developments, and

operations relating to the matters referred to in section 1306(b) (3).

(c) If in any fiscal year the funds appropriated under section 1309 are insufficient to fund all applications approved under this title for that fiscal year, the Secretary shall, after applying the applicable priorities under sections 1303 and 1304, give priority to the funding of applications for projects which the Secretary determines are the most likely to be economically viable.

(d) An entity which provides health services to a defined population on a prepaid basis and which has members who are entitled to insurance benefits under title XVIII of the Social Security Act or to medical assistance under a State plan approved under title XIX of such Act may be considered as a health maintenance organization for purposes of receiving assistance under this title if—

(1) with respect to its members who are entitled to such insurance benefits or to such medical assistance it (A) provides health services in accordance with section 1301(b), except that (i) it does not furnish to those members the health services (within the basic health services) for which it may not be compensated under such title XVIII or such State plan, and (ii) it does not fix the basic or supplemental health services payment for such members under a community rating system, and (B) is organized and operated in the manner prescribed by section 1301(c), except that it does not assume full financial risk on a prospective basis for the provision to such members of basic or supplemental health services with respect to which it is not required under such title XVIII or such State plan to assume such financial risk; and

(2) with respect to its other members it provides health services in accordance with section 1301(b) and is organized and operated in the manner prescribed by section 1301(c).

An entity which provides health services to a defined population on a prepaid basis and which has members who are enrolled under the health benefits program authorized by chapter 89 of title 5, United States Code, may be considered as a health maintenance organization for purposes of receiving assistance under this title if with respect to its other members it provides health services in accordance with section 1301(b) and is organized and operated in the manner prescribed by section 1301(c).

(e) In any fiscal year no loan guarantee may be made for a private health maintenance organization (other than a private nonprofit health maintenance organization) under this title if the making of such guarantee would cause the cumulative total of the principal of the loans guaranteed; for private health maintenance organi-

zations (other than private nonprofit health maintenance organizations) under this title in such fiscal year to exceed the amount of grant and contract funds obligated under this title in such fiscal year; except that this subsection shall not apply if the amount of grant and contract funds obligated under this title in such fiscal year equals the sums appropriated under section 1309 for grants and contracts for such fiscal year.

#### GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

SEC. 1308. (a) (1) The Secretary may not approve an application for a loan guarantee under this title unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for loans with similar maturities, terms, conditions, and security and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this title.

(2) (A) The United States shall be entitled to recover from the applicant for a loan guarantee under this title the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this title (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this title shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.



(D) Guarantees of loans under this title shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

(b) (1) The Secretary may not approve an application for a loan under this title unless—

(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this title shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this title, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) (1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this title.

(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The

full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

(3) After any loan under this title to a public health maintenance organization has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e).

(5) Any reference in this title (other than in this subsection and in subsection (d)) to a loan guarantee under this title does not include a loan guarantee made under this subsection.

(d)(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this title and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this title, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from

the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this title. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this title and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

#### AUTHORIZATIONS OF APPROPRIATIONS

42 U.S.C.  
300e-8

SEC. 1309. (a) For the purpose of making payments under grants and contracts under sections 1303, 1304(a), and 1304(b), there are authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1974, \$55,000,000 for the fiscal year ending June 30, 1975, \$40,000,000 for the fiscal year ending June 30, 1976, \$45,000,000 for the fiscal year ending September 30, 1977, and \$45,000,000 for the fiscal year ending September 30, 1978; and for the purpose of making payments under grants and contracts under section 1304(b) for the fiscal year ending September 30, 1979, there is authorized to be appropriated \$50,000,000.

(b) There is authorized to be appropriated to the loan fund established under section 1308(e) \$75,000,000 in the aggregate for the fiscal years ending June 30, 1974, and June 30, 1975.

#### EMPLOYEES' HEALTH BENEFITS PLANS

42 U.S.C.  
300e-9

SEC. 1310. (a) (1) In accordance with regulations which the Secretary shall prescribe—

(A) each employer—

(i) which is now or hereafter required during any calendar quarter to pay its employees the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay its employees such wage but for section 13(a) of such Act), and



(ii) which during such calendar quarter employed an average number of employees of not less than 25,

shall include in any health benefits plan, and

(B) any State and each political subdivision thereof which during any calendar quarter employed an average number of employees of not less than 25, as a condition of payment to the State of funds under section 314(d), 317, 318, 1002, 1525, or 1613, shall include in any health benefits plan,

offered to such employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in health maintenance organization service areas in which at least 25 of such employees reside.

(2) If any of the employees of an employer or State or political subdivision thereof described in paragraph (1) are represented by a collective bargaining representative or other employee representative designated or selected under any law, offer of membership in a qualified health maintenance organization required by paragraph (1) to be made in a health benefits plan offered to such employees (A) shall first be made to such collective bargaining representative or other employee representative, and (B) if such offer is accepted by such representative, shall then be made to each such employee.

(b) If there is more than one qualified health maintenance organization which is engaged in the provision of basic and supplemental health services in the area in which the employees of an employer subject to subsection (a) reside and if—

(1) one or more of such organizations provides basic health services (A) without the use of an individual practice association and (B) without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals, and

(2) one or more of such organizations provides basic health services through (A) an individual practice association (or associations), (B) health professionals who have contracted with the health maintenance organization for the provision of such services, or (C) a combination of such association (or associations) or health professionals under contract with the organization, then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health services as described in clause (2).

(c) No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer and its employees.

(d) For purposes of this section, the term "qualified health maintenance organization" means (1) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 1301(b) and that it is organized and operated in the manner prescribed by section 1301(c), and (2) an entity which proposes to become a health maintenance organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 1301(b) and will be organized and operated in the manner prescribed by section 1301(c).

(e) (1) Any employer who knowingly does not comply with one or more of the requirements of subsection (a) shall be subject to a civil penalty of not more than \$10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty and in any civil action to collect such a civil penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

(f) For purposes of this section, the term "employer" does not include (1) the Government of the United States, the government of the District of Columbia or any territory or possession of the United States, a State or any political subdivision thereof, or any agency or instru-

mentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing; or (2) a church, convention or association of churches, or any organization operated, supervised or controlled by a church, convention or association of churches which organization (A) is an organization described in section 501 (c) (3) of the Internal Revenue Code of 1954, and (B) does not discriminate (i) in the employment, compensation, promotion, or termination of employment of any personnel, or (ii) in the extension of staff or other privileges to any physician or other health personnel, because such persons seek to obtain or obtained health care, or participate in providing health care, through a health maintenance organization.

(g) If the Secretary, after reasonable notice and opportunity for hearing to a State, finds that it or any of its political subdivisions has failed to comply with one or more of the requirements of subsection (a), the Secretary shall terminate payments to such State under sections 314(d), 317, 318, 1002, 1525, and 1613 and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.

(h) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a qualified health maintenance organization within the meaning of subsection (d), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312(a).

#### RESTRICTIVE STATE LAWS AND PRACTICES

SEC. 1311. (a) In the case of any entity—

42 U.S.C.  
300e-10

(1) which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

(A) requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

(B) requires that physicians constitute all or a percentage of its governing body,

(C) requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity, or

(D) requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, and



(2) for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans),

such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 1301.

(b) No State may establish or enforce any law which prevents a health maintenance organization for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans), from soliciting members through advertising its services, charges, or other non-professional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgment concerning, any health professional who provides services for a health maintenance organization.

(c) The Secretary shall, within 6 months after the date of the enactment of this subsection, develop a digest of State laws, regulations, and practices pertaining to development, establishment, and operation of health maintenance organizations which shall be updated at least quarterly and relevant sections of which shall be provided to the Governor of each State annually. Such digest shall indicate which State laws, regulations, and practices appear to be inconsistent with the operation of this section. The Secretary shall also insure that appropriate legal consultative assistance is available to the States for the purpose of complying with the provisions of this section.

#### CONTINUED REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

42 U.S.C.  
300e-11

SEC. 1312. (a) If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this title as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 1310—

(1) fails to provide basic and supplemental services to its members,

(2) fails to provide such services in the manner prescribed by section 1301(b), or

(3) is not organized or operated in the manner prescribed by section 1301(c),

the Secretary may take the action authorized by subsection (b).

(b)(1) If the Secretary makes, with respect to any entity which provided assurances to the Secretary under section 1310(d)(1), a determination described in subsection (a), the Secretary shall notify the entity in writing of the determination. Such notice shall specify the man-

ner in which the entity has not complied with such assurances and direct that the entity initiate (within 30 days of the date the notice is issued by the Secretary or within such longer period as the Secretary determines is reasonable) such action as may be necessary to bring (within such period as the Secretary shall prescribe) the entity into compliance with the assurances. If the entity fails to initiate corrective action within the period prescribed by the notice or fails to comply with the assurances within such period as the Secretary prescribes (A) the entity shall not be a qualified health maintenance organization for purposes of section 1310 until such date as the Secretary determines that it is in compliance with the assurances, and (B) each employer which has offered membership in the entity in compliance with section 1310, each lawfully recognized collective bargaining representative or other employee representative which represents the employees of each such employer, and the members of such entity shall be notified by the entity that the entity is not a qualified health maintenance organization for purposes of such section. The notice required by clause (B) of the preceding sentence shall contain, in readily understandable language, the reasons for the determination that the entity is not a qualified health maintenance organization. The Secretary shall publish in the Federal Register each determination referred to in this paragraph.

(2) If the Secretary makes, with respect to an entity which has received a grant, contract, loan, or loan guarantee under this title, a determination described in subsection (a), the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with the assurances it furnished respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made in connection with its application under this title for the grant, contract, loan, or loan guarantee.

(c) The Secretary, acting through the Assistant Secretary for Health, shall administer subsections (a) and (b) in the Office of the Assistant Secretary for Health.

#### LIMITATION ON SOURCE OF FUNDING FOR HEALTH MAINTENANCE ORGANIZATIONS

SEC. 1313. No funds appropriated under any provision of this Act other than this title may be used—

(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health services to a defined population on a prepaid basis;

(2) for grants or contracts, or for payments under loan guarantees, for planning projects for the estab-

42 U.S.C.  
300e-12

lishment or expansion of such organizations or entities;

(3) for grants or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities; or

(4) for loans, or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities.

#### PROGRAM EVALUATION

42 U.S.C.  
300e-13

SEC. 1314. (a) The Comptroller General shall evaluate the operations of at least ten or one-half (whichever is greater) of the health maintenance organizations for which assistance was provided under sections 1303, 1304, and 1305, and which, by December 31, 1976, have been designated by the Secretary under section 1310(d) as qualified health maintenance organizations. The Comptroller General shall report to the Congress the results of the evaluation by June 30, 1978. Such report shall contain findings—

(1) with respect to the ability of the organizations evaluated to operate on a fiscally sound basis without continued Federal financial assistance,

(2) with respect to the ability of such organizations to meet the requirements of section 1301(c) respecting their organization and operation,

(3) with respect to the ability of such organizations to provide basic and supplemental health services in the manner prescribed by section 1301(b),

(4) with respect to the ability of such organizations to include indigent and high-risk individuals in their membership, and

(5) with respect to the ability of such organizations to provide services to medically underserved populations.

(b) The Comptroller General shall also conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 1310. The Comptroller General shall report to the Congress the results of such study not later than thirty-six months after the date of the enactment of this title.

(c) The Comptroller General shall evaluate (1) the operations of distinct categories of health maintenance organizations in comparison with each other, (2) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and (3) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public. The Comptroller General shall report to the Congress the results of such evaluation not later



than thirty-six months after the date of the enactment of this title.

#### ANNUAL REPORT

SEC. 1315. (a) The Secretary shall periodically review the programs of assistance authorized by this title and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

42 U.S.C.  
300e-14

(1) a summary of each grant, contract, loan, or loan guarantee made under this title in the period covered by the report and a list of the health maintenance organizations which during such period became qualified health maintenance organizations for purposes of section 1310;

(2) the statistics and other information reported in such period to the Secretary in accordance with section 1301(c)(11);

(3) findings with respect to the ability of the health maintenance organizations assisted under this title—

(A) to operate on a fiscally sound basis without continued Federal financial assistance,

(B) to meet the requirements of section 1301

(c) respecting their organization and operation,

(C) to provide basic and supplemental health services in the manner prescribed by section 1301(b),

(D) to include indigent and high-risk individuals in their membership, and

(E) to provide services to medically underserved populations; and

(4) findings with respect to—

(A) the operation of distinct categories of health maintenance organizations in comparison with each other,

(B) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and

(C) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public.

(b) The Office of Management and Budget may review the Secretary's report under subsection (a) before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report.

#### ADMINISTRATION OF PROGRAM

SEC. 1316. The Secretary shall administer this title (other than sections 1310 and 1312) through a single identifiable administrative unit of the Department.

42 U.S.C.  
300e-15

**TITLE XIV—SAFETY OF PUBLIC WATER  
SYSTEMS**

**[For Text of This Title See Volume III]**

(444)

## TITLE XV—NATIONAL HEALTH PLANNING AND DEVELOPMENT

### PART A—NATIONAL GUIDELINES FOR HEALTH PLANNING

#### NATIONAL GUIDELINES FOR HEALTH PLANNING

SEC. 1501. (a) The Secretary shall, within eighteen months after the date of the enactment of this title, by regulation issue guidelines concerning national health planning policy and shall, as he deems appropriate, by regulation revise such guidelines. Regulations under this subsection shall be promulgated in accordance with section 553 of title 5, United States Code.

42 U.S.C.  
300k-1

(b) The Secretary shall include in the guidelines issued under subsection (a) the following:

(1) Standards respecting the appropriate supply, distribution, and organization of health resources.

(2) A statement of national health planning goals developed after consideration of the priorities, set forth in section 1502, which goals, to the maximum extent practicable, shall be expressed in quantitative terms.

(c) In issuing guidelines under subsection (a) the Secretary shall consult with and solicit recommendations and comments from the health systems agencies designated under part B, the State health planning and development agencies designated under part C, the Statewide Health Coordinating Councils established under part C, associations and specialty societies representing medical and other health care providers, and the National Council on Health Planning and Development established by section 1503.

#### NATIONAL HEALTH PRIORITIES

SEC. 1502. The Congress finds that the following deserve priority consideration in the formulation of national health planning goals and in the development and operation of Federal, State, and area health planning and resources development programs:

42 U.S.C.  
300k-2

(1) The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas.

(2) The development of multi-institutional systems for coordination or consolidation of institu-



tional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services).

(3) The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care.

(4) The training and increased utilization of physician assistants, especially nurse clinicians.

(5) The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions.

(6) The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organizations under part B of title XI of the Social Security Act.

(7) The development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.

(8) The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.

(9) The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions.

(10) The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services.

#### NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

42 U.S.C.  
300k-3

SEC. 1503. (a) There is established in the Department of Health, Education, and Welfare an advisory council to be known as the National Council on Health Planning and Development (hereinafter in this section referred to as the "Council"). The Council shall advise, consult with, and make recommendations to, the Secretary with respect to (1) the development of national guidelines under section 1501, (2) the implementation and administration of this title and title XVI, and (3) an evaluation of the implications of new medical technology for the organization, delivery, and equitable distribution of health care services.

(b) (1) The Council shall be composed of fifteen members. The Chief Medical Director of the Veterans'

Administration, the Assistant Secretary for Health and Environment of the Department of Defense, and the Assistant Secretary for Health of the Department of Health, Education, and Welfare shall be nonvoting ex officio members of the Council. The remaining members shall be appointed by the Secretary and shall be persons who, as a result of their training, experience, or attainments, are exceptionally well qualified to assist in carrying out the functions of the Council. Of the voting members, not less than five shall be persons who are not providers of health services, not more than three shall be officers or employees of the Federal Government, not less than three shall be members of governing bodies of health systems agencies designated under part B, and not less than three shall be members of Statewide Health Coordinating Councils established under section 1524. The two major political parties shall have equal representation among the voting members on the Council.

(2) The term of office of voting members of the Council shall be six years, except that—

(A) of the members first appointed to the Council, four shall be appointed for terms of two years and four shall be appointed for terms of four years, as designated by the Secretary at the time of appointment; and

(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

A member may serve after the expiration of his term until his successor has taken office.

(3) The chairman of the Council shall be selected by the voting members from among their number. The term of office of the chairman of the Council shall be the lesser of three years or the period remaining in his term of office as a member of the Council.

(c)(1) Except as provided in paragraph (2), the members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

(2) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703

(b) of title 5, United States Code.

(d) The Council may appoint, fix the pay of, and prescribe the functions of such personnel as are necessary to carry out its functions. In addition, the Council may procure the services of experts and consultants as authorized by section 3109 of title 5, United States Code, but without regard to the last sentence of such section.

(e) The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Council.

## PART B—HEALTH SYSTEMS AGENCIES

### HEALTH SERVICE AREAS

42 U.S.C. 3001

SEC. 1511. (a) Except as provided in section 1536, there shall be established, in accordance with this section, health service areas throughout the United States with respect to which health systems agencies shall be designated under section 1515. Each health service area shall meet the following requirements:

(1) The area shall be a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources to provide all necessary health services for residents of the area.

(2) To the extent practicable, the area shall include at least one center for the provision of highly specialized health services.

(3) The area, upon its establishment, shall have a population of not less than five hundred thousand or more than three million; except that—

(A) the population of an area may be more than three million if the area includes a standard metropolitan statistical area (as determined by the Office of Management and Budget) with a population of more than three million, and

(B) the population of an area may—

(i) be less than five hundred thousand if the area comprises an entire State which has a population of less than five hundred thousand, or

(ii) be less than—

(I) five hundred thousand (but not less than two hundred thousand) in unusual circumstances (as determined by the Secretary), or

(II) two hundred thousand in highly unusual circumstances (as determined by the Secretary),

if the Governor of each State in which the area is located determines, with the approval of the Secretary, that the area meets the other requirements of this subsection.



(4) To the maximum extent feasible, the boundaries of the area shall be appropriately coordinated with the boundaries of areas designated under section 1152 of the Social Security Act for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas.

The boundaries of a health service area shall be established so that, in the planning and development of health services to be offered within the health service area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas shall be established so as to recognize the differences in health planning and health services development needs between nonmetropolitan and metropolitan areas. Each standard metropolitan statistical area shall be entirely within the boundaries of one health service area, except that if the Governor of each State in which a standard metropolitan statistical area is located determines, with the approval of the Secretary, that in order to meet the other requirements of this subsection a health service area should contain only part of the standard metropolitan statistical area, then such statistical area shall not be required to be entirely within the boundaries of such health service area.

(b)(1) Within thirty days following the date of the enactment of this title, the Secretary shall simultaneously give to the Governor of each State written notice of the initiation of proceedings to establish health service areas throughout the United States. Each notice shall contain the following:

(A) A statement of the requirement (in subsection (a)) of the establishment of health service areas throughout the United States.

(B) A statement of the criteria prescribed by subsection (a) for health service areas and the procedures prescribed by this subsection for the designation of health service area boundaries.

(C) A request that the Governor receiving the notice (i) designate the boundaries of health service areas within his State, and, where appropriate and in cooperation with the Governors of adjoining States, designate the boundaries within his State of health service areas located both in his State and in adjoining States, and (ii) submit (in such form and manner as the Secretary shall specify) to the Secretary, within one hundred and twenty days of the date of enactment of this title, such boundary designations together with comments, submitted by the entities referred to in paragraph (2), with respect to such designations.

At the time such notice is given under this paragraph to each Governor, the Secretary shall publish as a notice in

the Federal Register a statement of the giving of his notice to the Governor and the criteria and procedures contained in such notice.

(2) Each State's Governor shall in the development of boundaries for health service areas consult with and solicit the views of the chief executive officer or agency of the political subdivisions within the State, the State agency which administers or supervises the administration of the State's health planning functions under a State plan approved under section 314(a), each entity within the State which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b), and each regional medical program established in the State under the title IX.

(3) (A) Within two hundred and ten days after the date of enactment of this title, the Secretary shall publish as a notice in the Federal Register the health service area boundary designations. The boundaries for health service areas submitted by the Governors shall, except as otherwise provided in subparagraph (B), constitute upon their publication in the Federal Register the boundaries for such health service areas.

(B) (i) If the Secretary determines that a boundary submitted to him for a health service area does not meet the requirements of subsection (a), he shall, after consultation with the Governor who submitted such boundary, make such revision in the boundary for such area (and as necessary, in the boundaries for adjoining health service areas) as may be necessary to meet such requirements and publish such revised boundary (or boundaries); and the revised boundary (or boundaries) shall upon publication in the Federal Register constitute the boundary (or boundaries) for such health service area (or areas). The Secretary shall notify the Governor of each State in which is located a health service area whose boundary is revised under this clause of the boundary revision and the reasons for such revision.

(ii) In the case of areas of the United States not included within the boundaries for health service areas submitted to the Secretary as requested under the notice under paragraph (1), the Secretary shall establish and publish in the Federal Register health service area boundaries which include such areas. The Secretary shall notify the Governor of each State in which is located a health service area the boundary for which is established under this clause of the boundaries established. In carrying out the requirement of this clause, the Secretary may make such revisions in boundaries submitted under subparagraph (A) as he determines are necessary to meet the requirement of subsection (a) for the establishment of health service areas throughout the United States.

(4) The Secretary shall review on a continuing basis and at the request of any Governor or designated health

systems agency the appropriateness of the boundaries of the health service areas established under paragraph (3) and, if he determines that a boundary for a health service area no longer meets the requirements of subsection (a), he may revise the boundaries in accordance with the procedures prescribed by paragraph (3)(B)(ii) for the establishment of boundaries of health service areas which include areas not included in boundaries submitted by the Governors. If the Secretary acts on his own initiative to revise the boundaries of any health service area, he shall consult with the Governor of the appropriate State or States, the entities referred to in paragraph (2), the appropriate health systems agency or agencies designated under part B and the appropriate Statewide Health Coordinating Council established under part C. A request for boundary revision shall be made only after consultation with the Governor of the appropriate State or States, the entities referred to in paragraph (2), the appropriate designated health systems agencies, and the appropriate established Statewide Health Coordinating Council and shall include the comments concerning the revision made by the entities consulted in requesting the revision.

(5) Within one year after the date of the enactment of this title the Secretary shall complete the procedures for the initial establishment of the boundaries of health service areas which (except as provided in section 1536) include the geographic area of all the States.

(c) Notwithstanding any other requirement of this section, an area—

(1) for which has been developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 314(b), and

(2) which otherwise meets the requirements of subsection (a),

shall be designated by the Secretary as a health service area unless the Governor of any State in which such area is located, upon a finding that another area is a more appropriate region for the effective planning and development of health resources, waives such requirement.

#### HEALTH SYSTEMS AGENCIES

SEC. 1512. (a) DEFINITION.—For purposes of this title, the term “health systems agency” means an entity which is organized and operated in the manner described in subsection (b) and which is capable, as determined by the Secretary, of performing each of the functions described in section 1513. The Secretary shall by regulation establish standards and criteria for the requirements of subsection (b) and section 1513.

(b) (1) LEGAL STRUCTURE.—A health systems agency for a health service area shall be—

42 U.S.C.  
300f-1



(A) a nonprofit private corporation (or similar legal mechanism such as a public benefit corporation) which is incorporated in the State in which the largest part of the population of the health service area resides, which is not a subsidiary of, or otherwise controlled by, any other private or public corporation or other legal entity, and which only engages in health planning and development functions;

(B) a public regional planning body if (i) it has a governing board composed of a majority of elected officials of units of general local government or it is authorized by State law (in effect before the date of enactment of this subsection) to carry out health planning and review functions such as those described in section 1513, and (ii) its planning area is identical to the health service area; or

(C) a single unit of general local government if the area of the jurisdiction of that unit is identical to the health service area.

A health systems agency may not be an educational institution or operate such an institution.

(2) STAFF.—

(A) EXPERTISE.—A health systems agency shall have a staff which provides the agency with expertise in at least the following: (i) Administration, (ii) the gathering and analysis of data, (iii) health planning, and (iv) development and use of health resources. The functions of planning and of development of health resources shall be conducted by staffs with skills appropriate to each function.

(B) SIZE AND EMPLOYMENT.—The size of the professional staff of any health systems agency shall be not less than five, except that if the quotient of the population (rounded to the next highest one hundred thousand) of the health service area which the agency serves divided by one hundred thousand is greater than five, the minimum size of the professional staff shall be the lesser of (i) such quotient, or (ii) twenty-five. The members of the staff shall be selected, paid, promoted, and discharged in accordance with such system as the agency may establish, except that the rate of pay for any position shall not be less than the rate of pay prevailing in the health service area for similar positions in other public or private health service entities. If necessary for the performance of its functions, a health systems agency may employ consultants and may contract with individuals and entities for the provision of services. Compensation for consultants and for contracted services shall be established in accordance with standards established by regulation by the Secretary.

## (3) GOVERNING BODY.—

(A) IN GENERAL.—A health systems agency which is a public regional planning body or unit of general local government shall, in addition to any other governing body, have a governing body for health planning, which is established in accordance with subparagraph (C), which shall have the responsibilities prescribed by subparagraph (B), and which has exclusive authority to perform for the agency the functions described in section 1513. Any other health systems agency shall have a governing body composed, in accordance with subparagraph (C), of not less than ten members and of not more than thirty members, except that the number of members may exceed thirty if the governing body has established another unit (referred to in this paragraph as an “executive committee”) composed, in accordance with subparagraph (C), of not more than twenty-five members of the governing body and has delegated to that unit the authority to take such action (other than the establishment and revision of the plans referred to in subparagraph (B)(ii)) as the governing body is authorized to take.

## (B) RESPONSIBILITIES.—The governing body—

(i) shall be responsible for the internal affairs of the health systems agency, including matters relating to the staff of the agency, the agency’s budget, and procedures and criteria (developed and published pursuant to section 1532) applicable to its functions under subsections (e), (f), (g), and (h) of section 1513;

(ii) shall be responsible for the establishment of the health systems plan and annual implementation plan required by section 1513(b);

(iii) shall be responsible for the approval of grants and contracts made and entered into under section 1513(c)(3);

(iv) shall be responsible for the approval of all actions taken pursuant to subsections (e), (f), (g), and (h), of section 1513;

(v) shall (I) issue an annual report concerning the activities of the agency, (II) include in that report the health systems plan and annual implementation plan developed by the agency, and a listing of the agency’s income, expenditures, assets, and liabilities, and (III) make the report readily available to the residents of the health service area and the various communications media serving such area;

(vi) shall reimburse its members for their reasonable costs incurred in attending meetings of the governing body;

(vii) shall meet at least once in each calendar quarter of a year and shall meet at least two additional times in a year unless its executive committee meets at least twice in that year; and

(viii) shall (I) conduct its business meetings in public, (II) give adequate notice to the public of such meetings, and (III) make its records and data available, upon request, to the public.

The governing body (and executive committee (if any)) of a health systems agency shall act only by vote of a majority of its members present and voting at a meeting called upon adequate notice to all of its members and at which a quorum is in attendance. A quorum for a governing body and executive committee shall be not less than one-half of its members.

(C) COMPOSITION.—The membership of the governing body and the executive committee (if any) of an agency shall meet the following requirements:

(i) A majority (but not more than 60 per centum of the members) shall be residents of the health service area served by the entity who are consumers of health care and who are not (nor within the twelve months preceding appointment been) providers of health care and who are broadly representative of the social, economic, linguistic and racial populations, geographic areas of the health service area, and major purchasers of health care.

(ii) The remainder of the members shall be residents of the health service area served by the agency who are providers of health care and who represent (I) physicians (particularly practicing physicians), dentists, nurses, optometrists, and other health professionals, (II) health care institutions (particularly hospitals, long-term care facilities, substance abuse treatment facilities and health maintenance organizations, (III) health care insurers, (IV) health professional schools, and (V) the allied health professions. Not less than one-third of the providers of health care who are members of the governing body or executive committee of a health systems agency shall be direct providers of health care (as described in section 1531(3)).

(iii) The membership shall—

(I) include (either through consumer or or provider members) public elected officials and other representatives of governmental authorities in the agency's health service area and representatives of public and private agencies in the area concerned with health.



(II) include a percentage of individuals who reside in nonmetropolitan areas within the health service area which percentage is equal to the percentage of residents of the area who reside in nonmetropolitan areas, and

(III) if the health systems agency serves an area in which there is located one or more hospitals or other health care facilities of the Veterans' Administration, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated for such purpose, and if the agency serves an area in which there is located one or more qualified health maintenance organizations (within the meaning of section 1310), include at least one member who is representative of such organizations.

(iv) If, in the exercise of its functions, a governing body or executive committee appoints a subcommittee of its members or an advisory group, it shall, to the extent practicable, make its appointments to any such subcommittee or group in such a manner as to provide the representation on such subcommittee or group described in this subparagraph.

(4) **INDIVIDUAL LIABILITY.**—No individual who, as a member or employee of a health systems agency, shall, by reason of his performance of any duty, function, or activity required of, or authorized to be undertaken by, the agency under this title, be liable for the payment of damages under any law of the United States or any State (or political subdivision thereof) if he has acted within the scope of such duty, function, or activity, has exercised due care, and has acted, with respect to that performance, without malice toward any person affected by it.

(5) **PRIVATE CONTRIBUTIONS.**—No health systems agency may accept any funds or contributions of services or facilities from any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources unless, in the case of an entity, it is an organization described in section 509(a) of the Internal Revenue Code of 1954 and is not directly engaged in the provision of health care in the health service area of the agency. For purposes of this paragraph, an entity shall not be considered to have such an interest solely on the basis of its providing (directly or indirectly) health care for its employees.

(6) **OTHER REQUIREMENTS.**—Each health system agency shall—

(A) make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

(B) provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this title and section 1640; and

(C) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records pertinent to the disposition of amounts received from the Secretary under this title and section 1640.

(c) SUBAREA COUNCILS.—A health systems agency may establish subarea advisory councils representing parts of the agency's health service area to advise the governing body of the agency on the performance of its functions. The composition of a subarea advisory council shall conform to the requirements of subsection (b) (3) (C).

#### FUNCTIONS OF HEALTH SYSTEMS AGENCIES

42 U.S.C.  
3001-2

SEC. 1513. (a) For the purpose of—

(1) improving the health of residents of a health service area,

(2) increasing the accessibility (including overcoming geographic, architectural, and transportation barriers), acceptability, continuity, and quality of the health services provided them,

(3) restraining increases in the cost of providing them health services, and

(4) preventing unnecessary duplication of health resources,

each health systems agency shall have as its primary responsibility provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. To meet its primary responsibility, a health systems agency shall carry out the functions described in subsections (b) through (h) of this section.

(b) In providing health planning and resources development for its health service area, a health systems agency shall perform the following functions:

(1) The agency shall assemble and analyze data concerning—

(A) the status (and its determinants) of the health of the residents of its health service area,

(B) the status of the health care delivery system in the area and the use of that system by the residents of the area,

(C) the effect the area's health care delivery system has on the health of the residents of the area,

(D) the number, type, and location of the area's health resources, including health services, manpower, and facilities,

(E) the patterns of utilization of the area's health resources, and

(F) the environmental and occupational exposure factors affecting immediate and long-term health conditions.

In carrying out this paragraph, the agency shall to the maximum extent practicable use existing data (including data developed under Federal health programs) and coordinate its activities with the cooperative system provided for under section 306 (e).

(2) The agency shall, after appropriate consideration of the recommended national guidelines for health planning policy issued by the Secretary under section 1501, the priorities set forth in section 1502, and the data developed pursuant to paragraph (1), establish, annually review, and amend as necessary a health systems plan (hereinafter in this title referred to as the "HSP") which shall be a detailed statement of goals (A) describing a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; (B) which are responsive to the unique needs and resources of the area; and (C) which take into account and are consistent with the national guidelines for health planning policy issued by the Secretary under section 1501 respecting supply, distribution, and organization of health resources and services. Before establishing an HSP, a health systems agency shall conduct a public hearing on the proposed HSP and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to such hearing, the agency shall publish in at least two newspapers of general circulation throughout its health service area a notice of its consideration of the proposed HSP, the time and place of the



hearing, the place at which interested persons may consult the HSP in advance of the hearing, and the place and period during which to submit written comments to the agency on the HSP.

(3) The agency shall establish, annually review, and amend as necessary an annual implementation plan (hereinafter in this title referred to as the "AIP") which describes objectives which will achieve the goals of the HSP and priorities among the objectives. In establishing the AIP, the agency shall give priority to those objectives which will maximally improve the health of the residents of the area, as determined on the basis of the relation of the cost of attaining such objectives to their benefits, and which are fitted to the special needs of the area.

(4) The agency shall develop and publish specific plans and projects for achieving the objectives established in the AIP.

(c) A health systems agency shall implement its HSP and AIP, and in implementing the plans it shall perform at least the following functions:

(1) The agency shall seek, to the extent practicable, to implement its HSP and AIP with the assistance of individuals and public and private entities in its health service area.

(2) The agency may provide, in accordance with the priorities established in the AIP, technical assistance to individuals and public and private entities for the development of projects and programs which the agency determines are necessary to achieve the health systems described in the HSP, including assistance in meeting the requirements of the agency prescribed under section 1532(b).

(3) The agency shall, in accordance with the priorities established in the AIP, make grants to public and nonprofit private entities and enter into contracts with individuals and public and nonprofit private entities to assist them in planning and developing projects and programs which the agency determines are necessary for the achievement of the health systems described in the HSP. Such grants and contracts shall be made from the Area Health Services Development Fund of the agency established with funds provided under grants made under section 1640. No grants or contract under this subsection may be used (A) to pay the costs incurred by an entity or individual in the delivery of health services (as defined in regulations of the Secretary), or (B) for the cost of construction or modernization of medical facilities. No single grant or contract made or entered into under this paragraph shall be available for obligation beyond the one year period beginning on the date the grant or contract was made

or entered into. If an individual or entity receives a grant or contract under this paragraph for a project or program, such individual or entity may receive only one more such grant or contract for such project or program.

(d) Each health systems agency shall coordinate its activities with—

(1) each Professional Standards Review Organization (designated under section 1152 of the Social Security Act),

(2) entities referred to in paragraphs (1) and (2) of section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 and regional and local entities the views of which are required to be considered under regulations prescribed under section 403 of the Intergovernmental Cooperation Act of 1968 to carry out section 401(b) of such Act,

(3) other appropriate general or special purpose regional planning or administrative agencies, and

(4) any other appropriate entity,

in the health systems agency's health service area. The agency shall, as appropriate, secure data from them for use in the agency's planning and development activities, enter into agreements with them which will assure that actions taken by such entities which alter the area's health systems will be taken in a manner which is consistent with the HSP and the AIP in effect for the area, and, to the extent practicable, provide technical assistance to such entities.

(e) (1) (A) Except as provided in subparagraph (B), each health systems agency shall review and approve or disapprove each proposed use within its health service area of Federal funds—

(i) appropriated under this Act, the Community Mental Health Centers Act, sections 409 and 410 of the Drug Abuse Office and Treatment Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for grants, contracts, loans, or loan guarantees for the development, expansion, or support of health resources; or

(ii) made available by the State in which the health service area is located (from an allotment to the State under an Act referred to in clause (i)) for grants or contracts for the development, expansion, or support of health resources.

(B) A health systems agency shall not review and approve or disapprove the proposed use within its health service area of Federal funds appropriated for grants or contracts under title IV, VII, or VIII of this Act unless the grants or contracts are to be made, entered into, or used to support the development of health resources intended for use in the health service area or the delivery

of health services. In the case of a proposed use within the health service area of a health systems agency of Federal funds described in subparagraph (A) by an Indian tribe or inter-tribal Indian organization for any program or project which will be located within or will specifically serve—

- (i) a federally-recognized Indian reservation.
- (ii) any land area in Oklahoma which is held in trust by the United States for Indians or which is a restricted Indian-owned land area, or
- (iii) a Native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act),

a health systems agency shall only review and comment on such proposed use.

(2) Notwithstanding any other provision of this Act or any other Act referred to in paragraph (1), the Secretary shall allow a health systems agency sixty days to make the review required by such paragraph. If an agency disapproves a proposed use in its health service area of Federal funds described in paragraph (1), the Secretary may not make such Federal funds available for such use until he has made, upon request of the entity making such proposal, a review of the agency decision. In making any such review of any agency decision, the Secretary shall give the appropriate State health planning and development agency an opportunity to consider the decision of the health systems agency and to submit to the Secretary its comments on the decision. The Secretary, after taking into consideration such State agency's comments (if any), may make such Federal funds available for such use, notwithstanding the disapproval of the health systems agency. Each such decision by the Secretary to make funds available shall be submitted to the appropriate health systems agency and State health planning and development agency and shall contain a detailed statement of the reasons for the decision.

(3) Each health systems agency shall provide each Indian tribe or inter-tribal Indian organization which is located within the agency's health service area information respecting the availability of the Federal funds described in the first sentence of this subsection.

(f) To assist State health planning and development agencies in carrying out their functions under paragraphs (4) and (5) of section 1523(a) each health systems agency shall review and make recommendations to the appropriate State health planning and development agency respecting the need for new institutional health services proposed to be offered or developed in the health service area of such health systems agency.

(g)(1) Except as provided in paragraph (2), each health systems agency shall review on a periodic basis



(but at least every five years) all institutional health services offered in the health service area of the agency and shall make recommendations to the State health planning and development agency designated under section 1521 for each State in which the health systems agency's health service area is located respecting the appropriateness in the area of such services.

(2) A health systems agency shall complete its initial review of existing institutional health services within three years after the date of the agency's designation under section 1515(c).

(h) Each health systems agency shall annually recommend to the State health planning and development agency designated for each State in which the health systems agency's health service area is located (1) projects for the modernization, construction, and conversion of medical facilities in the agency's health service area which projects will achieve the HSP and AIP of the health systems agency, and (2) priorities among such projects.

#### ASSISTANCE TO ENTITIES DESIRING TO BE DESIGNATED AS HEALTH SYSTEMS AGENCIES

SEC. 1514. The Secretary may provide all necessary technical and other nonfinancial assistance (including the preparation of prototype plans of organization and operation) to public or nonprofit private entities (including entities presently receiving financial assistance under section 314 (b) or title IX or as experimental health service delivery systems under section 304) which—

42 U.S.C.  
3001-3

(1) express a desire to be designated as health systems agencies, and

(2) the Secretary determines have a potential to meet the requirements of a health systems agency specified in sections 1512 and 1513.

to assist such entities in developing applications to be submitted to the Secretary under section 1515 and otherwise in preparing to meet the requirements of this part for designation as a health systems agency.

#### DESIGNATION OF HEALTH SYSTEMS AGENCIES

SEC. 1515. (a) At the earliest practicable date after the establishment under section 1511 of health service areas (but not later than eighteen months after the date of enactment of this title) the Secretary shall enter into agreements in accordance with this section for the designation of health systems agencies for such areas.

42 U.S.C.  
3001-4

(b) (1) The Secretary may enter into agreements with entities under which the entities would be designated as the health systems agencies for health service areas on a conditional basis with a view to determining their ability to meet the requirements of section 1512(b), and

their capacity to perform the functions prescribed by section 1513.

(2) During any period of conditional designation (which, except as otherwise provided in this paragraph, may not exceed 24 months), the Secretary may require that the entity conditionally designated meet only such of the requirements of section 1512(b) and perform only such of the functions prescribed by section 1513 as he determines such entity to be capable of meeting and performing. The Secretary may, upon application of a conditionally designated entity, extend for an additional period of not to exceed 12 months the period of such entity's conditional designation if the Secretary determines that (A) unusual circumstances exist or existed which prevent such entity from qualifying for designation under subsection (c) within 24 months of such entity's conditional designation under this subsection, (B) such extension should enable such entity to qualify for designation under subsection (c), and (C) such extension is necessary to carry out the purposes of this title. Each such determination shall be in writing and shall include a summary of the reasons for it. The number and type of such requirements and functions shall, during the period of conditional designation, be progressively increased as the entity conditionally designated becomes capable of added responsibility so that, by the end of such period, the agency may be considered for designation under subsection (c).

(3) Any agreement under which any entity is conditionally designated as a health systems agency may be terminated by such entity upon ninety days notice to the Secretary or by the Secretary upon ninety days notice to such entity.

(4) The Secretary may not enter into an agreement with any entity under paragraph (1) for conditional designation as a health systems agency for a health service area until—

(A) the entity has submitted an application for such designation which contains assurances satisfactory to the Secretary that upon completion of the period of conditional designation the applicant will be organized and operated in the manner described in section 1512(b) and will be qualified to perform, the functions prescribed by section 1513;

(B) a plan for the orderly assumption and implementation of the functions of a health systems agency has been received from the applicant and approved by the Secretary; and

(C) the Secretary has consulted with the Governor of each State in which such health service area is located and with such other State and local offi-

cial as he may deem appropriate, with respect to such designation.

In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by each entity which has developed a plan referred to in section 314(b) for all or part of the health service area with respect to which the application was submitted, and each regional medical program established in such area under title IX.

(c) (1) The Secretary shall enter into an agreement with an entity for its designation as a health systems agency if, on the basis of an application under paragraph (2) (and, in the case of an entity conditionally designated, on the basis of its performance during a period of conditional designation under subsection (b) as a health systems agency for a health service area), the Secretary determines that such entity is capable of fulfilling, in a satisfactory manner, the requirements and functions of a health systems agency. Any such agreement under this subsection with an entity may be renewed in accordance with paragraph (3), shall contain such provisions respecting the requirements of sections 1512(b) and 1513 and such conditions designed to carry out the purpose of this title, as the Secretary may prescribe, and shall be for a term of not to exceed twelve months; except that, prior to the expiration of such term, such agreement may be terminated—

(A) by the entity at such time and upon such notice to the Secretary as he may by regulation prescribe, or

(B) by the Secretary, at such time and upon such notice to the entity as the Secretary may by regulation prescribe, if the Secretary determines that the entity is not complying with or effectively carrying out the provisions of such agreement.

(2) The Secretary may not enter into an agreement with any entity under paragraph (1) for designation as a health systems agency for a health service area unless the entity has submitted an application to the Secretary for designation as a health systems agency, and the Governor of each State in which the area is located has been consulted respecting such designation of such entity. Such an application shall contain assurances satisfactory to the Secretary that the applicant meets the requirements of section 1512(b) and is qualified to perform or is performing the functions prescribed by section 1513. In considering such applications the Secretary shall give priority to an application which has been recommended for approval by (A) each entity which has developed a plan referred to in section 314(b) for all or part of the health service area with respect to which the application



was submitted, and (B) each regional medical program established in such area under title IX.

(3) An agreement under this subsection for the designation of a health systems agency may be renewed by the Secretary for a period not to exceed twelve months if upon review (as provided in section 1535) of the agency's operation and performance of its functions, he determines that it has fulfilled, in a satisfactory manner, the functions of a health systems agency prescribed by section 1513 and continues to meet the requirements of section 1512(b).

(d) If a designation under subsection (b) or (c) of a health systems agency for a health service area is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b) or (c) (as the Secretary determines appropriate), enter into a designation agreement with another entity to be the health systems agency for such area.

#### PLANNING GRANTS

42 U.S.C.  
3001-5

SEC. 1516. (a) The Secretary shall make in each fiscal year a grant to each health systems agency with which there is in effect a designation agreement under subsection (b) or (c) of section 1515. A grant under this subsection shall be made on such conditions as the Secretary determines is appropriate, shall be used by a health systems agency for compensation of agency personnel, collection of data, planning, and the performance of the functions of the agency, and shall be available for obligation for a period not to exceed the period for which its designation agreement is entered into or renewed (as the case may be), except that in the case of a grant made to a conditionally designated entity with which the Secretary will not enter into a designation agreement under section 1515(c), such grant shall be available for obligation for such additional period as the Secretary determines such entity will require to satisfactorily terminate its activities under the agreement for its conditional designation. A health systems agency may use funds under a grant under this subsection to make payments under contracts with other entities to assist the health systems agency in the performance of its functions; but it shall not use funds under such a grant to make payments under a grant or contract with another entity for the development or delivery of health services or resources.

(b) (1) The amount of any grant under subsection (a) to a health systems agency designated under section 1515(b) shall be determined by the Secretary. The amount of any grant under subsection (a) to any health systems agency designated under section 1515(c) shall be the lesser of—

(A) the product of \$0.50 and the population of the health service area for which the agency is designated, or

(B) \$3,750,000,

unless the agency would receive a greater amount under paragraph (2) or (3).

(2) (A) If the application of a health systems agency for such a grant contains assurances satisfactory to the Secretary that the agency will expend or obligate in the period in which such grant will be available for obligation non-Federal funds meeting the requirements of subparagraph (B) for the purposes for which such grant may be made, the amount of such grant shall be the sum of—

(i) the amount determined under paragraph (1), and

(ii) the lesser of (I) the amount of such non-Federal funds with respect to which the assurances were made, or (II) the product of \$0.25 and the population of the health service area for which the agency is designated.

(B) The non-Federal funds which an agency may use for the purpose of obtaining a grant under subsection (a) which is computed on the basis of the formula prescribed by subparagraph (A) shall—

(i) not include any funds contributed to the agency by any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources, and

(ii) be funds which are not paid to the agency for the performance of particular services by it and which are otherwise contributed to the agency without conditions as to their use other than the condition that the funds shall be used for the purposes for which a grant made under this section may be used.

(3) The amount of a grant under subsection (a) to a health systems agency designated under section 1515(c) may not be less than \$175,000.

(c) (1) For the purpose of making payments pursuant to grants made under subsection (a), there are authorized to be appropriated \$60,000,000 for the fiscal year ending June 30, 1975, \$90,000,000 for the fiscal year ending June 30, 1976, and \$125,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

(2) Notwithstanding subsection (b), if the total of the grants to be made under this section to health systems agencies for any fiscal year exceeds the total of the amounts appropriated under paragraph (1) for that fiscal year, the amount of the grant for that fiscal year to each health systems agency shall be an amount which bears the same ratio to the amount determined for that agency

for that fiscal year under subsection (b) as the total of the amounts appropriated under paragraph (1) for that fiscal year bears to the total amount required to make grants to all health systems agencies in accordance with the applicable provision of subsection (b); except that the amount of any grant to a health systems agency for any fiscal year shall not be less than \$175,000, unless the amount appropriated for that fiscal year under paragraph (1) is less than the amount required to make such a grant to each health systems agency.

## PART C—STATE HEALTH PLANNING AND DEVELOPMENT

### DESIGNATION OF STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

42 U.S.C.  
300m

SEC. 1521. (a) For the purpose of the performance within each State of the health planning and development functions prescribed by section 1523, the Secretary shall enter into and renew agreements (described in subsection (b)) for the designation of a State health planning and development agency for each State.

(b) (1) A designation agreement under subsection (a) is an agreement with the Governor of a State for the designation of an agency (selected by the Governor) of the government of that State as the State health planning and development agency (hereinafter in this part referred to as the "State Agency") to administer the State administrative program prescribed by section 1522 and to carry out the State's health planning and development functions prescribed by section 1523. The Secretary may not enter into such an agreement with the Governor of a State unless—

(A) there has been submitted by the State a State administrative program which has been approved by the Secretary,

(B) an application has been made to the Secretary for such an agreement and the application contains assurances satisfactory to the Secretary that the agency selected by the Governor for designation as the State Agency has the authority and resources to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1523, and

(C) in the case of an agreement entered into under paragraph (3), there has been established for the State a Statewide Health Coordinating Council meeting the requirements of section 1524.

(2) (A) The agreement entered into with a Governor of a State under subsection (a) may provide for the designation of a State Agency on a conditional basis with



a view to determining the capacity of the designated State Agency to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1523. The Secretary shall require as a condition to the entering into of such an agreement that the Governor submit on behalf of the agency to be designated a plan for the agency's orderly assumption and implementation of such functions.

(B) The period of an agreement described in subparagraph (A) may not exceed thirty-six months. During such period the Secretary may require that the designated State Agency perform only such of the functions of a State Agency prescribed by section 1523 as he determines it is capable of performing. The number and type of such functions shall, during such period, be progressively increased as the designated State Agency becomes capable of added responsibility, so that by the end of such period the designated State Agency may be considered for designation under paragraph (3).

(C) Any agreement with a Governor of a State entered into under subparagraph (A) may be terminated by the Governor upon ninety days' notice to the Secretary or by the Secretary upon ninety days' notice to the Governor.

(3) If, on the basis of an application for designation as a State Agency (and, in the case of an agency conditionally designated under paragraph (2), on the basis of its performance under an agreement with a Governor of a State entered into under such paragraph), the Secretary determines that the agency is capable of fulfilling, in a satisfactory manner, the responsibilities of a State Agency, he shall enter into an agreement with the Governor of the State designating the agency as the State Agency for the State. No such agreement may be made unless an application therefor is submitted to, and approved by, the Secretary. Any such agreement shall be for a term of not to exceed twelve months, except that, prior to the expiration of such term, such agreement may be terminated—

(A) by the Governor at such time and upon such notice to the Secretary as he may by regulation prescribe, or

(B) by the Secretary, at such time and upon such notice to the Governor as the Secretary may by regulation prescribe, if the Secretary determines that the designated State Agency is not complying with or effectively carrying out the provisions of such agreement.

An agreement under this paragraph shall contain such provisions as the Secretary may require to assure that the requirements of this part respecting State Agencies are complied with.

(4) An agreement entered into under paragraph (3) for the designation of a State Agency may be renewed by the Secretary for a period not to exceed twelve months if he determines that it has fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed and if the applicable State administrative program continues to meet the requirements of section 1522.

(c) If a designation agreement with the Governor of a State entered into under subsection (b) (2) or (b) (3) is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b) (2), or (b) (3) (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

(d) If, upon the expiration of the fourth fiscal year which begins after the calendar year in which the National Health Planning and Resources Development Act of 1974 is enacted, an agreement under this section for the designation of a State Agency for a State is not in effect, the Secretary may not make any allotment, grant, loan, or loan guarantee, or enter into any contract, under this Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for the development, expansion, or support of health resources in such State until such time as such an agreement is in effect.

#### STATE ADMINISTRATIVE PROGRAM

42 U.S.C.  
300m-1

SEC. 1522. (a) A State administrative program (hereinafter in this section referred to as the "State Program") is a program for the performance within the State by its State Agency of the functions prescribed by section 1523. The Secretary may not approve a State Program for a State unless it—

- (1) meets the requirements of subsection (b);
  - (2) has been submitted to the Secretary by the Governor of the State at such time and in such detail, and contains or is accompanied by such information, as the Secretary deems necessary; and
  - (3) has been submitted to the Secretary only after the Governor of the State has afforded to the general public of the State a reasonable opportunity for a presentation of views on the State Program.
- (b) The State Program of a State must—
- (1) provide for the performance within the State (after the designation of a State Agency and in accordance with the designation agreement) of the functions prescribed by section 1523 and specify the State Agency of the State as the sole agency for the

performance of such functions (except as provided in subsection (b) of such section) and for the administration of the State Program;

(2) contain or be supported by satisfactory evidence that the State Agency has under State law the authority to carry out such functions and the State Program in accordance with this part and contain a current budget for the operation of the State Agency;

(3) provide for adequate consultation with, and authority for, the Statewide Health Coordinating Council (prescribed by section 1524), in carrying out such functions and the State Program;

(4) (A) set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibilities in the performance of such functions and the State Program, and require the State Agency to have a professional staff for planning and a professional staff for development, which staffs shall be of such size and meet such qualifications as the Secretary may prescribe;

(B) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of such functions and the State Program, including methods relating to the establishment and maintenance of personnel standards on a merit basis consistent with such standards as are or may be established by the Civil Service Commission under section 208(a) of the Intergovernmental Personnel Act of 1970 (Public Law 91-648), but the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with the methods relating to personnel standards on a merit basis established and maintained in conformity with this paragraph;

(5) require the State Agency to perform its functions in accordance with procedures and criteria established and published by it, which procedures and criteria shall conform to the requirements of section 1532;

(6) require the State Agency to (A) conduct its business meetings in public, (B) give adequate notice to the public of such meetings, and (C) make its records and data available, upon request, to the public;

(7) (A) provide for the coordination (in accordance with regulations of the Secretary) with the cooperative system provided for under section 306(e) of the activities of the State Agency for the collection, retrieval, analysis, reporting, and publication



of statistical and other information related to health and health care, and (B) require providers of health care doing business in the State to make statistical and other reports of such information to the State Agency;

(8) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the performance by the State Agency of its functions and of their economic effectiveness;

(9) provide that the State Agency will from time to time, and in any event not less often than annually, review the State Program and submit to the Secretary required modifications;

(10) require the State Agency to make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

(11) require the State Agency to provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this title;

(12) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records of the State Agency pertinent to the disposition of amounts received from the Secretary under this title; and

(13) provide that if the State Agency makes a decision in the performance of a function under paragraph (3), (4), (5), or (6) of section 1523(a) or under title XVI which is inconsistent with a recommendation made under subsection (f), (g), or (h) of section 1513 by a health systems agency within the State—

(A) such decision (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency) designated by the Governor, and

(B) the decision of the reviewing agency shall for purposes of this title and title XVI be considered the decision of the State health planning and development agency.

(c) The Secretary shall approve any State Program and any modification thereof which complies with subsections (a) and (b). The Secretary shall review for compliance with the requirements of this part the specifications of and operations under each State Program approved by him. Such review shall be conducted not less often than once each year.

#### STATE HEALTH PLANNING AND DEVELOPMENT FUNCTIONS

42 U.S.C.  
300m-2

SEC. 1523. (a) Each State Agency of a State designated under section 1521(b)(3) shall, except as authorized under subsection (b), perform within the State the following functions:

(1) Conduct the health planning activities of the State and implement those parts of the State health plan (under section 1524(c)(2)) and the plans of the health systems agencies within the State which relate to the government of the State.

(2) Prepare and review and revise as necessary (but at least annually) a preliminary State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such preliminary plan may, as found necessary by the State Agency, contain such revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs. Such preliminary plan shall be submitted to the Statewide Health Coordinating Council of the State for approval or disapproval and for use in developing the State health plan referred to in section 1524(c).

(3) Assist the Statewide Health Coordinating Council of the State in the review of the State medical facilities plan required under section 1603, and in the performance of its functions generally.

(4) (A) Serve as the designated planning agency of the State for the purposes of section 1122 of the Social Security Act if the State has made an agreement pursuant to such section, and (B) administer a State certificate of need program which applies to new institutional health services proposed to be offered or developed within the State and which is satisfactory to the Secretary. Such program shall provide for review and determination of need prior to the time such services, facilities, and organizations are offered or developed or substantial expenditures are undertaken in preparation for such offering or development, and provide that only those services, facilities, and organizations found to be needed shall be offered or developed in the State. In performing its functions under this paragraph the State Agency shall consider recommendations made by health systems agencies under section 1513(f).

(5) After consideration of recommendations submitted by health systems agencies under section 1413 (f) respecting new institutional health services proposed to be offered within the State, make findings as to the need for such services.

(6) Review on a periodic basis (but not less often than every five years) all institutional health services being offered in the State and, after consideration of recommendations submitted by health systems agencies under section 1513(g) respecting the appropriateness of such services, make public its findings.

(b)(1) Any function described in subsection (a) may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency satisfactory to the Secretary.

(2) The requirement of paragraph (4) (B) of subsection (a) shall not apply to a State Agency of a State until the expiration of the first regular session of the legislature of such State which begins after the date of enactment of this title.

(3) A State Agency shall complete its findings with respect to the appropriateness of any existing institutional health service within one year after the date a health systems agency has made its recommendation under section 1513(g) with respect to the appropriateness of the service.

(c) If a State Agency makes a decision in carrying out a function described in paragraph (4), (5), or (6) of subsection (a) which is not consistent with the goals of the applicable HSP or the priorities of the applicable AIP, the State Agency shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency.

#### STATEWIDE HEALTH COORDINATING COUNCIL

42 U.S.C.  
300m-3

SEC. 1524. (a) A State health planning and development agency designated under section 1521 shall be advised by a Statewide Health Coordinating Council (hereinafter in this section referred to as the "SHCC") which (1) is organized in the manner described by subsection (b), and (2) performs the functions listed in subsection (c).

(b)(1) A SHCC of a State shall be composed in the following manner:

(A) (i) A SHCC shall have no fewer than sixteen representatives appointed by the Governor of the State from lists of at least five nominees submitted to the Governor by each of the health systems agencies designated for health service areas which fall, in whole or in part, within the State.



(ii) Each such health systems agency shall be entitled to the same number of representatives on the SHCC.

(iii) Each such health systems agency shall be entitled to at least two representatives on the SHCC. Of the representatives of a health systems agency, not less than one-half shall be individuals who are consumers of health care and who are not providers of health care.

(B) In addition to the appointments made under subparagraph (A), the Governor of the State may appoint such persons (including State officials, public elected officials, and other representatives of governmental authorities within the State) to serve on the SHCC as he deems appropriate; except that (i) the number of persons appointed to the SHCC under this subparagraph may not exceed 40 per centum of the total membership of the SHCC, and (ii) a majority of the persons appointed by the Governor shall be consumers of health care who are not also providers of health care.

(C) Not less than one-third of the providers of health care who are members of a SHCC shall be direct providers of health care (as described in section 1531(3)).

(D) Where two or more hospitals or other health care facilities of the Veterans' Administration are located in a State, the SHCC shall, in addition to the appointed members, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated as a representative of such facilities.

(2) The SHCC shall select from among its members a chairman.

(3) The SHCC shall conduct all of its business meetings in public, and shall meet at least once in each calendar quarter of a year.

(c) A SHCC shall perform the following functions:

(1) Review annually and coordinate the HSP and AIP of each health systems agency within the State and report to the Secretary, for purposes of his review under section 1535(c), its comments on such HSP and AIP.

(2) (A) Prepare and review and revise as necessary (but at least annually) a State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such plan may, as found necessary by the SHCC, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs. Each health systems agency which participates in the SHCC shall make available to the SHCC

its HSP for each year for integration into the State health plan and shall, as required by the SHCC, revise its HSP to achieve appropriate coordination with the HSP's of the other agencies which participate in the SHCC or to deal more effectively with statewide health needs.

(B) In the preparation and revision of the State health plan, the SHCC shall review and consider the preliminary State health plan submitted by the State agency under section 1523(a)(2), and shall conduct a public hearing on the plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to any such hearing, the SHCC shall publish in at least two newspapers of general circulation in the State a notice of its consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan in advance of the hearing, and the place and period during which to direct written comment to the SHCC on the plan.

(3) Review annually the budget of each such health systems agency and report to the Secretary, for purposes of his review under section 1535(a), its comments on such budget.

(4) Review applications submitted by such health systems agencies for grants under sections 1516 and 1640 and report to the Secretary its comments on such applications.

(5) Advise the State Agency of the State generally on the performance of its functions.

(6) Review annually and approve or disapprove any State plan and any application (and any revision of a State plan or application) submitted to the Secretary as a condition to the receipt of any funds under allotments made to States under this Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Notwithstanding any other provision of this Act or any other Act referred to in the preceding sentence, the Secretary shall allow a SHCC sixty days to make the review required by such sentence. If a SHCC disapproves such a State plan or application, the Secretary may not make Federal funds available under such State plan or application until he has made, upon request of the Governor of the State which submitted such plan or application or another agency of such State, a review of the SHCC decision. If after such review the Secretary decides to make such funds available, the decision by the Secretary to make such funds available shall be submitted to

the SHCC and shall contain a detailed statement of the reasons for the decision.

#### GRANTS FOR STATE HEALTH PLANNING AND DEVELOPMENT

SEC. 1525. (a) The Secretary shall make grants to State health planning and development agencies designated under subsection (b) (2) or (b) (3) of section 1521 to assist them in meeting the costs of their operation. Any grant made under this subsection to a State Agency shall be available for obligation only for a period not to exceed the period for which its designation agreement is entered into or renewed. The amount of any grant made under this subsection shall be determined by the Secretary, except that no grant to a designated State Agency may exceed 75 per centum of its operation costs (as determined under regulations of the Secretary) during the period for which the grant is available for obligation. 42 U.S.C.  
300m-4

(b) Grants under subsection (a) shall be made on such terms and conditions as the Secretary may prescribe; except that the Secretary may not make a grant to a State Agency unless he receives satisfactory assurances that the State Agency will expend in performing the functions prescribed by section 1523 during the fiscal year for which the grant is sought an amount of funds from non-Federal sources which is at least as great as the average amount of funds expended, in the three years immediately preceding the fiscal year for which such grant is sought, by the State, for which such State Agency has been designated, for the purposes for which funds under such grant may be used (excluding expenditures of a nonrecurring nature).

(c) For the purpose of making payments under grants under subsection (a), there are authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1975, \$30,000,000 for the fiscal year ending June 30, 1976, and \$35,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

#### GRANTS FOR RATE REGULATION

SEC. 1526. (a) For the purpose of demonstrating the effectiveness of State Agencies regulating rates for the provision of health care, the Secretary may make grants to a State Agency designated, under an agreement entered into under section 1521(b) (3), for a State which (in accordance with regulations prescribed by the Secretary) has indicated an intent to regulate (not later than six months after the date of the enactment of this title) rates for the provision of health care within the State. Not more than six State Agencies may receive grants under this subsection. 42 U.S.C.  
300m-5



(b) (1) A State Agency which receives a grant under subsection (a) shall—

(A) provide the Secretary satisfactory evidence that the State Agency has under State law the authority to carry out rate regulation functions in accordance with this section and provide the Secretary a current budget for the performance of such functions by it;

(B) set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibility in the performance of such functions, and shall have a professional staff for rate regulation, which staff shall be headed by a Director;

(C) provide for such methods of administration as found by the Secretary to be necessary for the proper and efficient administration of such functions;

(D) perform its functions in accordance with procedures established and published by it, which procedures shall conform to the requirements of section 1532;

(E) comply with the requirements prescribed by paragraphs (6) through (12) of section 1522(b) with respect to the functions prescribed by subsection (a);

(F) provide for the establishment of a procedure under which the State Agency will obtain the recommendation of the appropriate health systems agency prior to conducting a review of the rates charged or proposed to be charged for services; and

(G) meet such other requirements as the Secretary may prescribe.

(2) In prescribing requirements under paragraph (1) of this subsection, the Secretary shall consider the manner in which a State Agency shall perform its functions under a grant under subsection (a), including whether the State Agency should—

(A) permit those engaged in the delivery of health services to retain savings accruing to them from effective management and cost control,

(B) create incentives at each point in the delivery of health services for utilization of the most economical modes of services feasible,

(C) document the need for and cost implications of each new service for which a determination of reimbursement rates is sought, and

(D) employ for each type or class of person engaged in the delivery of health services—

(i) a unit for determining the reimbursement rates, and

(ii) a base for determining rates of change in the reimbursement rates,

which unit and base are satisfactory to the Secretary.

(c) Grants under subsection (a) shall be made on such terms and conditions as the Secretary may prescribe, except that (1) such a grant shall be available for obligation only during the one-year period beginning on the date such grant was made, and (2) no State Agency may receive more than three grants under subsection (a).

(d) Each State Agency which receives a grant under subsection (a) shall report to the Secretary (in such form and manner as he shall prescribe) on the effectiveness of the rate regulation program assisted by such grant. The Secretary shall report annually to the Congress on the effectiveness of the programs assisted by the grants authorized by subsection (a).

(e) There are authorized to be appropriated to make payments under grants under subsection (a), \$4,000,000 for the fiscal year ending June 30, 1975, \$5,000,000 for the fiscal year ending June 30, 1976, and \$6,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

## PART D—GENERAL PROVISIONS

### DEFINITIONS

SEC. 1531. For purposes of this title:

42 U.S.C. 300n

(1) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(2) The term "Governor" means the chief executive officer of a State or his designee.

(3) The term "provider of health care" means an individual—

(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, optometrist, or physician assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, substance abuse treatment facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration; or

(B) who is an indirect provider of health care in that the individual—

(i) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subclause (II) or (IV) of clause (ii);

(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual

income from any one or combination of the following:

(I) Fees or other compensation for research into or instruction in the provision of health care.

(II) Entities engaged in the provision of health care or in such research or instruction.

(III) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care.

(IV) Entities engaged in producing drugs or such other articles.

(iii) is a member of the immediate family of an individual described in subparagraph (A) or in clause (i), (ii), or (iv) of subparagraph (B); or

(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

(4) The term "health resources" includes health services, health professions personnel, and health facilities, except that such term does not include Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

(5) The term "institutional health services" means the health services provided through health care facilities and health maintenance organizations (as such facilities and organizations are defined in regulations prescribed under section 1122 of the Social Security Act) and includes the entities through which such services are provided.

#### PROCEDURES AND CRITERIA FOR REVIEWS OF PROPOSED HEALTH SYSTEM CHANGES

42 U.S.C.  
300n-1

SEC. 1532. (a) In conducting reviews pursuant to subsections (e), (f), and (g) of section 1513 or in conducting any other reviews of proposed or existing health services, each health systems agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the agency in accordance with regulations of the Secretary; and in performing its review functions under section 1523, a State Agency shall (except to the extent approved by the Secretary) follow procedures and apply criteria, developed and published by the State Agency in accordance with regulations of the Secretary. Procedures and criteria for reviews by health systems agencies and States Agencies may vary according to the purpose for which a particu-



lar review is being conducted or the type of health services being reviewed.

(b) Each health systems agency and State Agency shall include in the procedures required by subsection (a) at least the following:

(1) Written notification to affected persons of the beginning of a review.

(2) Schedules for reviews which provide that no review shall, to the extent practicable, take longer than ninety days from the date the notification described in paragraph (1) is made.

(3) Provision for persons subject to a review to submit to the agency or State Agency (in such form and manner as the agency or State Agency shall prescribe and publish) such information as the agency or State Agency may require concerning the subject of such review.

(4) Submission of applications (subject to review by a health systems agency or a State Agency) made under this Act or other provisions of law for Federal financial assistance for health services to the health systems agency or State Agency at such time and in such manner as it may require.

(5) Submission of periodic reports by providers of health services and other persons subject to agency or State Agency review respecting the development of proposals subject to review.

(6) Provision for written findings which state the basis for any final decision or recommendation made by the agency or State Agency.

(7) Notification of providers of health services and other persons subject to agency or State Agency review of the status of the agency or State Agency review of the health services or proposals subject to review, fundings made in the course of such review, and other appropriate information respecting such review.

(8) Provision for public hearings in the course of agency or State Agency review if requested by persons directly affected by the review; and provision for public hearings, for good cause shown, respecting agency and State Agency decisions.

(9) Preparation and publication of regular reports by the agency and State Agency of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency and State Agency (including a general statement of the findings and decisions made in the course of such reviews) since the publication of the last such report.

(10) Access by the general public to all applications reviewed by the agency and State Agency and

to all other written materials pertinent to any agency or State Agency review.

(11) In the case of construction projects, submission to the agency and State Agency by the entities proposing the projects of letters of intent in such details as may be necessary to inform the agency and State Agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

(c) Criteria required by subsection (a) for health systems agency and State Agency review shall include consideration of at least the following:

(1) The relationship of the health services being reviewed to the applicable HSP and AIP.

(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

(3) The need that the population served or to be served by such services has for such services.

(4) The availability of alternatives, less costly, or more effective methods of providing such services.

(5) The relationship of services reviewed to the existing health care system of the area in which such services are provided or proposed to be provided.

(6) In the case of health services proposed to be provided, the availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of such services and the availability of alternative uses of such resources for the provision of other health services.

(7) The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics, specialty centers, and such other entities as the Secretary may by regulation prescribe.

(8) The special needs and circumstances of health maintenance organizations for which assistance may be provided under title XIII.

(9) In the case of a construction project—

(A) the costs and methods of the proposed construction, and

(B) the probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

The criteria established by any health systems agency or State Agency under paragraph (8) shall be consistent with the standards and procedures established by the Secretary under section 1306(c) of this Act.

TECHNICAL ASSISTANCE FOR HEALTH SYSTEMS AGENCIES AND  
STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

SEC. 1533. (a) The Secretary shall provide (directly or through grants or contracts, or both) to designated health systems agencies and State Agencies (1) assistance in developing their health plans and approaches to planning various types of health services, (2) technical materials, including methodologies, policies, and standards appropriate for use in health planning, and (3) other technical assistance as may be necessary in order that such agencies may properly perform their functions.

42 U.S.C.  
300n-2

(b) The Secretary shall include in the materials provided under subsection (a) the following:

(1) (A) Specification of the minimum data needed to determine the health status of the residents of a health service area and the determinants of such status.

(B) Specification of the minimum data needed to determine the status of the health resources and services of a health service area.

(C) Specification of the minimum data needed to describe the use of health resources and services within a health service area.

(2) Planning approaches, methodologies, policies, and standards which shall be consistent with the guidelines established by the Secretary under section 1501 for appropriate planning and development of health resources, and which shall cover the priorities listed in section 1502.

(3) Guidelines for the organization and operation of health systems agencies and State Agencies including guidelines for—

(A) the structure of a health systems agency, consistent with section 1512(b), and of a State Agency, consistent with section 1522;

(B) the conduct of the planning and development processes;

(C) the performance of health systems agency functions in accordance with section 1513; and

(D) the performance of State Agency functions in accordance with section 1523.

(c) In order to facilitate the exchange of information concerning health services, health resources, and health planning and resources development practice and methodology, the Secretary shall establish a national health planning information center to support the health planning and resources development programs of health systems agencies, State Agencies, and other entities concerned with health planning and resources development: to provide access to current information on health planning and resources development; and to provide information for use in the analysis of issues and problems related to health planning and resources development.



(d) The Secretary shall establish the following within one year of the date of enactment of this title:

(1) A uniform system for calculating the aggregate cost of operation and the aggregate volume of services provided by health services institutions as defined by the Secretary in regulations. Such system shall provide for the calculation of the aggregate volume to be based on:

- (A) The number of patient days;
- (B) The number of patient admissions;
- (C) The number of out-patient visits; and
- (D) Other relevant factors as determined by the Secretary.

(2) A uniform system for cost accounting and calculating the volume of services provided by health services institutions. Such system shall:

(A) Include the establishment of specific cost centers and, where appropriate, subcost centers.

(B) Include the designation of an appropriate volume factor for each cost center.

(C) Provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health services institutions), and different sizes of such types of institutions.

(3) A uniform system for calculating rates to be charged to health insurers and other health institutions payors by health service institutions. Such system shall:

(A) Be based on an all-inclusive rate for various categories of patients (including, but not limited to individuals receiving medical, surgical, pediatric, obstetric, and psychiatric institutional health services).

(B) Provide that such rates reflect the true cost of providing services to each such category of patients. The system shall provide that revenues derived from patients in one category shall not be used to support the provision of services to patients in any other category.

(C) Provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health service institutions) and different sizes of such types of institutions.

(D) Provide that differences in rates to various classes of purchasers (including health insurers, direct service payors, and other health institution payors) be based on justified and documented differences in the costs of operation of health service institutions made possible by the actions of such purchasers.

(4) A classification system for health services institutions. Such classification system shall quantitatively describe and group health services institutions of the various types. Factors included in such classification system shall include—

(A) the number of beds operated by an institution;

(B) the geographic location of an institution;

(C) the operation of a postgraduate physician training program by an institution; and

(D) the complexity of services provided by an institution.

(5) A uniform system for the reporting by health services institutions of—

(A) the aggregate cost of operation and the aggregate volume of services, as calculated in accordance with the system established by the Secretary under paragraph (1);

(B) the costs and volume of services at various cost centers, and subcost centers, as calculated in accordance with the system established by the Secretary under paragraph (2); and

(C) rates, by category of patient and class of purchaser, as calculated in accordance with the system established by the Secretary under paragraph (3).

Such system shall provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health services institutions) and different sizes of such institutions.

#### CENTERS FOR HEALTH PLANNING

SEC. 1534. (a) For the purposes of assisting the Secretary in carrying out this title, providing such technical and consulting assistance as health systems agencies and State Agencies may from time to time require, conducting research, studies and analyses of health planning and resources development, and developing health planning approaches, methodologies, policies, and standards, the Secretary shall by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health planning development and assistance. To the extent practicable, the Secretary shall provide assistance under this section so that at least five such centers will be in operation by June 30, 1976.

(b) (1) No grant or contract may be made under this section for planning or developing a center unless the Secretary determines that when it is operational it will

42 U.S.C.  
300n-3

meet the requirements listed in paragraph (2) and no grant or contract may be made under this section for operation of a center unless the center meets such requirements.

(2) The requirements referred to in paragraph (1) are as follows:

(A) There shall be a full-time director of the center who possesses a demonstrated capacity for substantial accomplishment and leadership in the field of health planning and resources development, and there shall be such additional professional staff as may be appropriate.

(B) The staff of the center shall represent a diversity of relevant disciplines.

(C) Such additional requirements as the Secretary may by regulation prescribe.

(c) Centers assisted under this section (1) may enter into arrangements with health systems agencies and State Agencies for the provision of such services as may be appropriate and necessary in assisting the agencies and State Agencies in performing their functions under section 1513 or 1523, respectively, and (2) shall use methods (satisfactory to the Secretary) to disseminate to such agencies and State Agencies such planning approaches, methodologies, policies and standards as they develop.

(d) For the purpose of making payments pursuant to grants and contracts under subsection (a) there are authorized to be appropriated \$5,000,000 for the fiscal year ending June 30, 1975, \$8,000,000 for the fiscal year ending June 30, 1976, and \$10,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

#### REVIEW BY THE SECRETARY

42 U.S.C.  
300n-4

SEC. 1535. (a) The Secretary shall review and approve or disapprove the annual budget of each designated health systems agency and State Agency. In making such review and approval or disapproval the Secretary shall consider the comments of Statewide Health Coordinating Councils submitted under section 1524(c)(3). Information submitted to the Secretary by a health systems agency or a State Agency in connection with the Secretary's review under this subsection shall be made available by the Secretary, upon request, to the appropriate committees (and their subcommittees) of the Congress.

(b) The Secretary shall prescribe performance standards covering the structure, operation, and performance of the functions of each designated health systems agency and State Agency, and he shall establish a reporting system based on the performance standards that allows for continuous review of the structure, operation, and performance of the functions of such agencies.



(c) The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated health systems agency to determine—

(1) the adequacy of the HSP of the agency for meeting the needs of the residents of the area for a healthful environment and for accessible, acceptable and continuous quality health care at reasonable costs, and the effectiveness of the AIP in achieving the system described in the HSP;

(2) if the structure, operation, and performance of the functions of the agency meet the requirements of sections 1512(b) and 1513;

(3) the extent to which the agency's governing body (and executive committee (if any)) represents the residents of the health service area for which the agency is designated;

(4) the professional credentials and competence of the staff of the agency;

(5) the appropriateness of the data assembled pursuant to section 1513(b)(1) and the quality of the analyses of such data;

(6) the extent to which technical and financial assistance from the agency have been utilized in an effective manner to achieve goals and objectives of the HSP and the AIP; and

(7) the extent to which it may be demonstrated that—

(A) the health of the residents in the agency's health service area has been improved;

(B) the accessibility, acceptability, continuity, and quality of health care in such area has been improved; and

(C) increases in costs of the provision of health care have been restrained.

(d) The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated State Agency to determine—

(1) the adequacy of the State health plan of the Statewide Health Coordinating Council prepared under section 1524(c)(2) in meeting the needs of the residents of the State for a healthful environment and for accessible, acceptable, and continuous quality health care at reasonable costs;

(2) if the structure, operation, and performance of the functions of the State Agency meet the requirements of sections 1522 and 1523;

(3) the extent to which the Statewide Health Coordinating Council has a membership meeting, and has performed in a manner consistent with, the requirements of section 1524;

(4) the professional credentials and competence of the staff of the State Agency;

(5) the extent to which financial assistance provided under title XVI by the State Agency has been used in an effective manner to achieve the State's health plan under section 1524(c)(2); and

(6) the extent to which it may be demonstrated that—

(A) the health of the residents of the State has been improved;

(B) the accessibility, acceptability, continuity, and quality of health care in the State has been improved; and

(C) increases in costs of the provision of health care have been restrained.

#### SPECIAL PROVISIONS FOR CERTAIN STATES AND TERRITORIES

42 U.S.C.  
300n-5

SEC. 1536. (a) Any State which—

(1) has no county or municipal public health institution or department, and

(2) has, prior to the date of enactment of this title, maintained a health planning system which substantially complies with the purposes of this title, and the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands and American Samoa shall each be considered in accordance with subsection (b) to be a State for purposes of this title.

(b) In the case of an entity which under subsection (a) is to be considered a State for purposes of this title—

(1) no health service area shall be established within it,

(2) no health systems agency shall be designated for it,

(3) the State Agency designated for it under section 1521 may, in addition to the functions prescribed by section 1523, perform the functions prescribed by section 1513 and shall be eligible to receive grants authorized by sections 1516 and 1640, and

(4) the chief executive officer shall appoint the Statewide Health Coordinating Council prescribed by section 1524 in accordance with regulations of the Secretary.

## TITLE XVI—HEALTH RESOURCES DEVELOPMENT

### PART A—PURPOSE, STATE PLAN, AND PROJECT APPROVAL

#### PURPOSE

SEC. 1601. It is the purpose of this title to provide assistance, through allotments under part B and loans and loan guarantees and interest subsidies under part C, for projects for— 42 U.S.C. 300a

- (1) modernization of medical facilities;
- (2) construction of new outpatient medical facilities;
- (3) construction of new inpatient medical facilities in areas which have experienced (as determined under regulations of the Secretary) recent rapid population growth; and

(4) conversion of existing medical facilities for the provision of new health services, and to provide assistance, through grants under part D, for construction and modernization projects designed to prevent or eliminate safety hazards in medical facilities or to avoid noncompliance by such facilities with licensure or accreditation standards.

#### GENERAL REGULATIONS

SEC. 1602. The Secretary shall by regulation— 42 U.S.C.  
300a-1

(1) prescribe the general manner in which the State Agency of each State shall determine for the State medical facilities plan under section 1603 the priority among projects within the State for which assistance is available under this title, based on the relative need of different areas within the State for such projects and giving special consideration—

(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas,



(D) to projects designed to (i) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (ii) avoid non-compliance with State or voluntary licensure or accreditation standards, and

(E) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(2) prescribe for medical facilities projects assisted under this title general standards of construction, modernization, and equipment for medical facilities of different classes and in different types of location;

(3) prescribe criteria for determining needs for medical facility beds and needs for medical facilities, and for developing plans for the distribution of such beds and facilities;

(4) prescribe criteria for determining the extent to which existing medical facilities are in need of modernization;

(5) require each State medical facilities plan under section 1603 to provide for adequate medical facilities for all persons residing in the State and adequate facilities to furnish needed health services for persons unable to pay therefor; and

(6) prescribe the general manner in which each entity which receives financial assistance under this title or has received financial assistance under this title or title VI shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

An entity subject to the requirements prescribed pursuant to paragraph (6) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably support the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence.

#### STATE MEDICAL FACILITIES PLAN

42 U.S.C.  
300a-2

SEC. 1603. (a) Before an application for assistance under this title (other than part D) for a medical facility project described in section 1601 may be approved, the State Agency of the State in which such project is located must have submitted to the Secretary and had approved by him a State medical facilities plan. To be approved by the Secretary a State medical facilities plan for a State must—

(1) prescribe that the State Agency of the State shall administer or supervise the administration of the plan and contain evidence satisfactory to the Secretary that the State Agency has the authority to carry out the plan in conformity with this title;

(2) prescribe that the Statewide Health Coordinating Council of the State shall advise and consult with the State Agency in carrying out the plan;

(3) be approved by the Statewide Health Coordinating Council as consistent with the State health plan developed pursuant to section 1524(c)(2);

(4) set forth, in accordance with criteria established in regulations prescribed under section 1602 and on the basis of a statewide inventory of existing medical facilities, a survey of need, and the plans of health systems agencies within the State—

(A) the number and type of medical facility beds and medical facilities needed to provide adequate inpatient care to people residing in the State, and a plan for the distribution of such beds and facilities in health services areas throughout the State,

(B) the number and type of outpatient and other medical facilities needed to provide adequate public health services and outpatient care to people residing in the State, and a plan for the distribution of such facilities in health service areas throughout the State, and

(C) the extent to which existing medical facilities in the State are in need of modernization or conversion to new uses;

(5) set forth a program for the State for assistance under this title for projects described in section 1601, which program shall indicate the type of assistance which should be made available to each project and shall conform to the assessment of need set forth pursuant to paragraph (4) and regulations promulgated under section 1602;

(6) set forth (in accordance with regulations promulgated under section 1602) priorities for the provision of assistance under this title for projects in the program set forth pursuant to paragraph (5);

(7) provide minimum requirements (to be fixed in the discretion of the State Agency) for the maintenance and operation of facilities which receive assistance under this title, and provide for enforcement of such requirements;

(8) provide for affording to every applicant for assistance for a medical facilities project under this title an opportunity for a hearing before the State Agency; and

(9) provide that the State Agency will from time to time, but not less often than annually, review the

plan and submit to the Secretary any modifications thereof which it considers necessary.

(b) The Secretary shall approve any State medical facilities plan and any modification thereof which complies with the provisions of subsection (a) if the State Agency, as determined under the review made under section 1535(d), is organized and operated in the manner prescribed by section 1522 and is carrying out its functions under section 1523 in a manner satisfactory to the Secretary. If any such plan or modification thereof shall have been disapproved by the Secretary for failure to comply with subsection (a), the Secretary shall, upon request of the State Agency, afford it an opportunity for hearing.

#### APPROVAL OF PROJECTS

42 U.S.C.  
300a-3

SEC. 1604. (a) For each project described in section 1601 and included within a State's State medical facilities plan approved under section 1603 there shall be submitted to the Secretary, through the State's State Agency, an application. An application for a grant under section 1625 shall be submitted directly to the Secretary. Except as provided in section 1625, the applicant under such an application may be a State, a political subdivision of a State or any other public entity, or a private nonprofit entity. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

(b) (1) Except as authorized under paragraph (2), an application for any project shall set forth—

(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

(B) a description of the site of such project;

(C) plans and specifications therefor which meet the requirements of the regulations prescribed under section 1602;

(D) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

(E) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purpose of determining if



the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

(F) the type of assistance being sought under this title for the project;

(G) except in the case of a project under section 1625, a certification by the State Agency of the Federal share for the project;

(H) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(I) in the case of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

(J) reasonable assurance that at all times after such application is approved (i) the facility or portion thereof to be constructed, or modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

(2) (A) The Secretary may waive—

(i) the requirements of subparagraph (C) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 1602(2), and

(ii) the requirement of subparagraph (D) of paragraph (1) respecting title to a project site, in the case of an application for a project described in subparagraph (B).

(B) A project referred to in subparagraph (A) is a project—

(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined in section 1633 or as designated by a health systems agency, and

(ii) for which the applicant seeks (I) not more than \$20,000 from the allotments made under part B to the State in which it is located, or (II) a loan under part C the principal amount of which does not exceed \$20,000.

(c) The Secretary shall approve an application submitted under subsection (b) (other than an application for a grant under section 1625) if—

(1) in the case of a project to be assisted from an allotment made under part B, there are sufficient funds in such allotment to pay the Federal share of the project; and

(2) the Secretary finds that—

(A) the application (i) is in conformity with the State medical facilities plan approved under section 1603, (ii) has been approved and recommended by the State Agency, (iii) is for a project which is entitled to priority over other projects within the State as determined in accordance with the approved State medical facilities plan, and (iv) contains the assurances required by subsection (b); and

(B) the plans and specifications for the project meet the requirements of the regulations prescribed pursuant to section 1602.

(d) No application (other than an application for a grant under section 1625) shall be disapproved until the Secretary has afforded the State Agency an opportunity for a hearing.

(e) Amendment of any approved application shall be subject to approval in the same manner as an original application.

(f) Each application shall be reviewed by health systems agencies in accordance with section 1513(e).

## PART B—ALLOTMENTS

### ALLOTMENTS

42 U.S.C. 300p

SEC. 1610. (a) For each fiscal year, the Secretary shall, in accordance with regulations, make from sums appropriated for such fiscal year under section 1613 allotments among the States on the basis of the population, the financial need, and need for medical facilities projects

described in section 1601 of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

(b) (1) The allotment to any State (other than Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands) for any fiscal year shall be not less than \$1,000,000; and the allotment to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands for any fiscal year shall be not less than \$500,000 each.

(2) Notwithstanding paragraph (1), if the amount appropriated under section 1613 for any fiscal year is less than the amount required to provide allotments in accordance with paragraph (1), the amount of the allotment to any State for such fiscal year shall be an amount which bears the same ratio to the amount prescribed for such State by paragraph (1) as the amount appropriated for such fiscal year bears to the amount of appropriations needed to make allotments to all the States in accordance with paragraph (1).

(c) Any amount allotted to a State for a fiscal year under subsection (a) and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallocated by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title. Any amount so reallocated to a State shall be in addition to the amounts allotted and available to the State for the same period.

#### PAYMENTS FROM ALLOTMENTS

SEC. 1611. (a) If with respect to any medical facility project approved under section 1604 the State Agency certifies (upon the basis of inspection by it) to the Secretary that, in accordance with approved plans and specifications, work has been performed upon the project or purchases have been made for it and that payment from the applicable allotment of the State in which the project is located is due for the project, the Secretary shall, except as provided in subsection (b), make such payment to the State.

42 U.S.C.  
300p-1



(b) The Secretary is authorized to not make payments to a State pursuant to subsection (a) in the following circumstances:

(1) If such State is not authorized by law to make payments for an approved medical facility project from the payment to be made by the Secretary pursuant to subsection (a), or if the State so requests, the Secretary shall make the payment from the State allotment directly to the applicant for such project.

(2) If the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 1612, payment by the Secretary may, after he has given the State Agency notice and opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing.

In no event may the total of payments made under subsection (a) with respect to any project exceed an amount equal to the Federal share of such project.

(c) In case an amendment to an approved application is approved as provided in section 1604 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(d) In any fiscal year—

(1) not more than 20 per centum of the amount of a State's allotment available for obligation in that fiscal year may be obligated for projects in the State for construction of new facilities for the provision of inpatient health care to persons residing in areas of the State which have experienced recent rapid population growth; and

(2) not less than 25 per centum of the amount of a State's allotment available for obligation in that fiscal year shall be obligated for projects for outpatient facilities which will serve medically underserved populations.

In the administration of this part, the Secretary shall seek to assure that in each fiscal year at least one half of the amount obligated for projects pursuant to paragraph (2) shall be obligated for projects which will serve rural medically underserved populations.

#### WITHHOLDING OF PAYMENTS AND OTHER COMPLIANCE ACTIONS

42 U.S.C.  
300p-2

SEC. 1612. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Agency concerned finds—

(1) that the State Agency is not complying substantially with the provisions required by section

1603 to be included in its State medical facilities plan,

(2) that any assurance required to be given in an application filed under section 1604 is not being or cannot be carried out, or

(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 1604,

the Secretary shall take the action authorized by subsection (b) unless, in the case of compliance with assurances, the Secretary requires compliance by other means authorized by law.

(b) (1) Upon a finding described in subsection (a) and after notice to the State Agency concerned, the Secretary may—

(A) withhold from all projects within the State with respect to which the finding was made further payments from the State's allotment under section 1610, or

(B) withhold from the specific projects with respect to which the finding was made further payments from the applicable State allotment under section 1610.

(2) Payments may be withheld, in whole or in part, under paragraph (1)—

(A) until the basis for the finding upon which the withholding was made no longer exists, or

(B) if corrective action to make such finding inapplicable cannot be made, until the State concerned repays or arranges for the repayment of Federal funds paid under this part for projects which because of the finding are not entitled to such funds.

(c) The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this title or which has received financial assistance under title VI or this title, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall take the action authorized by subsection (b) or take any other action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An appropriate action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within

6 months after the date on which the complaint was filed with the Secretary.

#### AUTHORIZATION OF APPROPRIATIONS

42 U.S.C.  
300p-3

SEC. 1613. Except as provided in section 1625(d), there are authorized to be appropriated for allotments under section 1610 \$125,000,000 for the fiscal year ending June 30, 1975, \$130,000,000 for the fiscal year ending June 30, 1976, and \$135,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

#### PART C—LOANS AND LOAN GUARANTEES

##### AUTHORITY FOR LOANS AND LOAN GUARANTEES

42 U.S.C. 300q

SEC. 1620. (a) The Secretary, during the period beginning July 1, 1974, and ending September 30, 1978, may, in accordance with this part, make loans from the fund established under section 1622(d) to pay the Federal share of projects approved under section 1604.

(b)(1) The Secretary, during the period beginning July 1, 1974, and ending September 30, 1978, may, in accordance with this part, guarantee to—

(i) non-Federal lenders for their loans to non-profit private entities for medical facilities projects, and

(ii) the Federal Financing Bank for its loans to nonprofit private entities for such projects, payment of principal and interest on such loans if applications for assistance for such projects under this title have been approved under section 1604.

(2) In the case of a guarantee of any loan to a non-profit private entity under this title, the Secretary shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of such a loan which is guaranteed under this title shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(c) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed such limitations as may be specified in appropriation Acts.

(d) The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.



## ALLOCATION AMONG THE STATES

SEC. 1621. (a) For each fiscal year, the total amount of principal of— 42 U.S.C.  
300q-1

(1) loans to nonprofit private entities which may be guaranteed, or

(2) loans which may be directly made,  
under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of the population, financial need, and need for medical facilities projects described in section 1601 of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

(b) Any amount allotted to a State for a fiscal year under subsection (a) and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallocated by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title. Any amount so reallocated to a State shall be in addition to the amounts allotted and available to the State for the same period.

GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND  
LOANS

SEC. 1622. (a) (1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part. 42 U.S.C.  
300q-2

(2) (A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights

of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

(b) (1) The Secretary may not approve a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus 3 per centum per annum, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) (1) The Secretary shall from time to time, but with due regard to the financial interests of the United States,

sell loans made under this part either on the private market or to the Federal National Mortgage Association in accordance with section 302 of the Federal National Mortgage Association Charter Act or to the Federal Financing Bank.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loans as of time of sale.

(3) (A) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(i) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(ii) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which, when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(B) Any agreement under subparagraph (A)—

(i) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser any payments of principal and interest payable by such entity under such loan;

(ii) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(iii) shall provide that, in the event of any default by the entity to which such loan was made in payment of principal or interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(iv) shall provide that, in the event such loan is closed out as provided in clause (iii), or in the event of any other loss incurred by the Secretary by reason of the failure of such entity to make payments of principal or interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such entity.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection (d).



(5) If any loan to a public entity under this part is sold and guaranteed by the Secretary under this subsection, interest paid on such loan after its sale and any interest subsidy paid, under paragraph (3) (A) (ii), by the Secretary with respect to such loan which is received by the purchaser of the loan (or the purchaser's successor in interest) shall be included in the gross income of the purchaser or successor for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(d) (1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

- (A) to enable him to make loans under this part,
- (B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,
- (C) for payment of interest under section 1620(b)
- (2) on loans guaranteed under this part,
- (D) for repurchase of loans under subsection (c)
- (3) (B), and
- (E) for payment of interest on loans which are sold and guaranteed.

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary—

- (A) to make payments of interest under section 1620(b) (2),
- (B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,
- (C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or
- (D) to repurchase loans under subsection (c) (3)
- (B), and
- (E) to make payments of interest on loans which are sold and guaranteed.

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into

consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) (1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 626 shall be transferred to the fund established by subsection (d) of this section.

(2) To provide additional capitalization for the fund established under subsection (d) there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978.

## PART D—PROJECT GRANTS

### PROJECT GRANTS

SEC. 1625. (a) The Secretary may make grants for construction or modernization projects designed to (1) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (2) avoid noncompliance with State or voluntary licensure or accreditation standards. A grant under this subsection may only be made to a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation, for a project described in the preceding sentence for any medical facility owned or operated by it. 42 U.S.C. 300r

(b) An application for a grant under subsection (a) may not be approved under section 1604 unless it contains assurances satisfactory to the Secretary that the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for.

(c) The amount of any grant under subsection (a) may not exceed 75 per centum of the cost of the project for

which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

(d) Of the sums appropriated under section 1613 for a fiscal year, there shall be made available for grants under subsection (a) for such fiscal year 22 per centum of such sums. In addition to the amounts made available for such grants under the preceding sentence for the fiscal year ending September 30, 1978, there are authorized to be appropriated \$67,500,000 for such fiscal year for such grants.

## PART E—GENERAL PROVISIONS

### JUDICIAL REVIEW

42 U.S.C. 300s

SEC. 1630. If—

(1) the Secretary refuses to approve an application for a project submitted under section 1604, the State Agency through which such application was submitted, or

(2) any State is dissatisfied with, or any entity will be adversely affected by, the Secretary's action under section 1612, such State or entity,

may appeal to the United States court of appeals for the circuit in which such State Agency, State, or entity is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the Court, operate as a stay of the Secretary's action.



## RECOVERY

SEC. 1631. (a) If any facility constructed, modernized, or converted with funds provided under this title is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds—

42 U.S.C.  
300s-1

(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 1604, or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor; or

(2) not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use,

the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

(b) The Secretary may waive the recovery rights of the United States under subsection (a) with respect to a facility in any State—

(1) if (as determined under regulations prescribed by the Secretary) the amount which could be recovered under subsection (a) with respect to such facility is applied to the development, expansion, or support of another medical facility located in such State which has been approved by the Statewide Health Coordinating Council for such State as consistent with the State health plan established pursuant to section 1524(c); or

(2) if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility.

If the amount which the United States is entitled to recover under subsection (a) exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost.

## STATE CONTROL OF OPERATIONS

42 U.S.C.  
300s-2

SEC. 1632. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this title.

## DEFINITIONS

42 U.S.C.  
300s-3

SEC. 1633. For the purposes of this title—

(1) The term "State" includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

(2) The term "Federal share" means the proportion of the cost of a medical facilities project which the State Agency determines the Federal Government will provide under allotment payments or a loan or loan guarantee under this title, except that—

(A) in the case of a modernization project—  
(i) described in section 1604(b) (2) (B),  
and

(ii) the application for which received a waiver under section 1604(b) (2) (A),  
the proportion of the cost of such project to be paid by the Federal Government under allotment payments or a loan may not exceed \$20,000 and may not exceed 100 per centum of the first \$6,000 of the cost of such project and 66⅔ per centum of the next \$21,000 of such cost,

(B) in the case of a project (other than a project described in subparagraph (A)) to be assisted from an allotment made under part B, the proportion of the cost of such project to be paid by the Federal Government may not exceed 66⅔ unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the proportion of the cost of such project to be paid by the Federal Government may be 100 per centum, and

(C) in the case of a project (other than a project described in subparagraph (A)) to be assisted with a loan or loan guarantee made under part C, the principal amount of the loan directly made or guaranteed for such project, when added to any other assistance provided the project under this title, may not exceed 90 per centum of the cost of such project unless the

project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the principal amount, when added to other assistance under this title, may cover up to 100 per centum of the cost of the project.

(3) The term "hospital" includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professional personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(4) The term "public health center" means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

(5) The term "nonprofit" as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(6) The term "outpatient medical facility" means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

(A) which is operated in connection with a hospital,

(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties and which provides to its patients a reasonably full-range of diagnostic and treatment services.

(7) The term "rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

(A) medical evaluation and services, and

(B) psychological, social, or vocational evaluation and services,



under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(8) The term "facility for long-term care" means a facility (including a skilled nursing or intermediate care facility) providing in-patient care for convalescent or chronic disease patients who required skilled nursing or intermediate care and related medical services—

(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculosis patients) or is operated in connection with a hospital, or

(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

(9) The term "construction" means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

(10) The term "cost" as applied to construction modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project, except that, in the case of a modernization project or a project assisted under part D, such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.

(11) The term "modernization" includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

(12) The term "title," when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years' undisturbed use and possession for the purposes of

construction, modernization, or conversion and operation of the project for a period of not less than (A) twenty years in the case of a project assisted under an allotment or grant under this title, or (B) the term of repayment of a loan made or guaranteed under this title in the case of a project assisted by a loan or loan guarantee.

(13) The term "medical facility" means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

(14) The term "State Agency" means the State health planning and development agency of a State designated under title XV.

(15) The term "urban or rural poverty area" means an urban or rural geographical area (as defined by the Secretary) in which a percentage (as defined by the Secretary in accordance with the next sentence) of the residents of the area have incomes below the poverty level (as defined by the Secretary of Commerce). The percentage referred to in the preceding sentence shall be defined so that the percentage of the population of the United States residing in urban and rural poverty areas is—

(A) not more than the percentage of the total population of the United States with incomes below the poverty level (as so defined) plus five per centum, and

(B) not less than such percentage minus five per centum.

(16) The term "medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of health facilities or a population group designated by the Secretary as having a shortage of such facilities.

#### FINANCIAL STATEMENTS; RECORDS AND AUDIT

SEC. 1634. (a) In the case of any facility for which an allotment payment, grant, loan, or loan guarantee has been made under this title, the applicant for such payment, grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State Agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

- (1) the financial operations of the facility, and
- (2) the costs to the facility of providing health

42 U.S.C.  
300s-4

services in the facility and the charges made by the facility for providing such services, during the period with respect to which the statement is filed.

(b) (1) Each entity receiving Federal assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such entity of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such entities which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the assistance referred to in paragraph (1)).

(c) Each such entity shall file at least annually with the Secretary a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

(1) the financial operations of the facility constructed or modernized with such assistance, and

(2) the costs to such facility of providing health services in such facility, and the charges made for such services, during the period with respect to which the statement is filed.

#### TECHNICAL ASSISTANCE

42 U.S.C.  
300s-5

SEC. 1635. The Secretary shall provide (either through the Department of Health, Education, and Welfare or by contract) all necessary technical and other nonfinancial assistance to any public or other nonprofit entity which is eligible to apply for assistance under this title to assist such entity in developing applications to be submitted to the Secretary under section 1604. The Secretary shall make every effort to inform eligible applicants of the availability of assistance under this title.

#### PART F—AREA HEALTH SERVICES DEVELOPMENT FUNDS

##### DEVELOPMENT GRANTS FOR AREA HEALTH SERVICES DEVELOPMENT FUNDS

42 U.S.C. 300t

SEC. 1640. (a) The Secretary shall make in each fiscal year a grant to each health system agency—

(1) with which there is in effect a designation agreement under section 1515(c),



(2) which has in effect an HSP and AIP reviewed by the Statewide Health Coordinating Council, and

(3) which, as determined under the review made under section 1535(c), is organized and operated in the manner prescribed by section 1512(b) and is performing its functions under section 1513 in a manner satisfactory to the Secretary,

to enable the agency to establish and maintain an Area Health Services Development Fund from which it may make grants and enter into contracts in accordance with section 1513(c) (3).

(b)(1) Except as provided in paragraph (2), the amount of any grant under subsection (a) shall be determined by the Secretary after taking into consideration the population of the health service area for which the health systems agency is designated, the average family income of the area, and the supply of health services in the area.

(2) The amount of any grant under subsection (a) to a health systems agency for any fiscal year may not exceed the product of \$1 and the population of the health service area for which such agency is designated.

(c) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require.

(d) For the purpose of making payments pursuant to grants under subsection (a), there are authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1975, \$75,000,000 for the fiscal year ending June 30, 1976, and \$120,000,000 each for the fiscal years ending September 30, 1977, and September 30, 1978.

## TITLE XVII—HEALTH INFORMATION AND HEALTH PROMOTION

### GENERAL AUTHORITY

42 U.S.C. 300u

SEC. 1701. (a) The Secretary shall—

(1) formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(2) analyze the necessary and available resources for implementing the goals and strategy formulated pursuant to paragraph (1), and recommend appropriate educational and quality assurance policies for the needed manpower resources identified by such analysis;

(3) undertake and support necessary activities and programs to—

(A) incorporate appropriate health education components into our society, especially into all aspects of education and health care,

(B) increase the application and use of health knowledge, skills, and practices by the general population in its patterns of daily living, and

(C) establish systematic processes for the exploration, development, demonstration, and evaluation of innovative health promotion concepts;

(4) undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(5) undertake and support appropriate training in, and undertake and support appropriate training in the operation of programs concerned with, health information and health promotion, preventive health services, and education in the appropriate use of health care;

(6) undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(7) foster the exchange of information respecting, and foster cooperation in the conduct of, re-

search, demonstration, and training programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

(8) provide technical assistance in the programs referred to in paragraph (7); and

(9) use such other authorities for programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care as are available and coordinate such use with programs conducted under this title.

The Secretary shall administer this title in a manner consistent with the national health priorities set forth in section 1502 and with health planning and resource development activities undertaken under titles XV and XVI.

(b) For payments under grants and contracts under this title there are authorized to be appropriated \$7,000,000 for the fiscal year ending September 30, 1977, \$10,000,000 for the fiscal year ending September 30, 1978, and \$14,000,000 for the fiscal year ending September 30, 1979.

(c) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may prescribe. Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

#### RESEARCH PROGRAMS

SEC. 1702. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review. The Secretary shall also—

42 U.S.C.  
300u-1

(1) provide consultation and technical assistance to persons who need help in preparing research proposals or in actually conducting research;

(2) determine the best methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce its risk, or modify its course or severity;



(3) determine and study environmental, occupational, social, and behavioral factors which affect and determine health and ascertain those programs and areas for which educational and preventive measures could be implemented to improve health as it is affected by such factors;

(4) develop (A) methods by which the cost and effectiveness of activities respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, can be measured, including methods for evaluating the effectiveness of various settings for such activities and the various types of persons engaged in such activities, (B) methods for reimbursement or payment for such activities, and (C) models and standards for the conduct of such activities, including models and standards for the education, by providers of institutional health services, of individuals receiving such services respecting the nature of the institutional health services provided the individuals and the symptoms, signs, or diagnoses which led to provision of such services;

(5) develop a method for assessing the cost and effectiveness of specific medical services and procedures under various conditions of use, including the assessment of the sensitivity and specificity of screening and diagnostic procedures; and

(6) enumerate and assess, using methods developed under paragraph (5), preventive health measures and services with respect to their cost and effectiveness under various conditions of use.

(b) The Secretary shall make a periodic survey of the needs, interest, attitudes, knowledge, and behavior of the American public regarding health and health care. The Secretary shall take into consideration the findings of such surveys and the findings of similar surveys conducted by national and community health education organizations, and other organizations and agencies for formulating policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care.

#### COMMUNITY PROGRAMS

42 U.S.C.  
300u-2

SEC. 1703. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) new and innovative programs in health information and health promotion, preventive health services, and education in the appropriate use of health care, and may specifically—

(1) support demonstration and training programs in such matters which programs (A) are in hospi-

tals, ambulatory care settings, home care settings, schools, day care programs for children, and other appropriate settings representative of broad cross sections of the population, and include public education activities of voluntary health agencies, professional medical societies, and other private nonprofit health organizations, (B) focus on objectives that are measurable, and (C) emphasize the prevention or moderation of illness or accidents that appear controllable through individual knowledge and behavior;

(2) provide consultation and technical assistance to organizations that request help in planning, operating, or evaluating programs in such matters;

(3) develop health information and health promotion materials and teaching programs including (A) model curriculums for the training of educational and health professionals and paraprofessionals in health education by medical, dental, and nursing schools, schools of public health, and other institutions engaged in training of educational or health professionals, (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning, (C) materials and programs for the continuing education of health professionals and paraprofessionals in the health education of their patients, (D) materials for public service use by the printed and broadcast media, and (E) materials and programs to assist providers of health care in providing health education to their patients; and

(4) support demonstration and evaluation programs for individual and group self-help programs designed to assist the participant in using his individual capacities to deal with health problems, including programs concerned with obesity, hypertension, and diabetes.

(b) The Secretary is authorized to make grants to States and other public and nonprofit entities to assist them in meeting the costs of demonstrating and evaluating programs which provide information respecting the costs and quality of health care or information respecting health insurance policies and prepaid health plans, or information respecting both. After the development of models pursuant to sections 1704(4) and 1704(5) for such information, no grant may be made under this subsection for a program unless the information to be provided under the program is provided in accordance with one of such models applicable to the information.

(c) The Secretary is authorized to support by grant or contract (and to encourage others to support) private nonprofit entities working in health information and

health promotion, preventive health services, and education in the appropriate use of health care. The amount of any grant or contract for a fiscal year beginning after September 30, 1978, for an entity may not exceed 25 per centum of the expenses of entity for such fiscal year for health information and health promotion, preventive health services, and education in the appropriate use of health care.

#### INFORMATION PROGRAMS

42 U.S.C.  
300u-3

SEC. 1704. The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of medical care, providers of such care, schools, and others who are or should be informed respecting such matters. Such activities may include at least the following:

(1) The publication of information, pamphlets, and other reports which are specially suited to interest and instruct the health consumer, which information, pamphlets, and other reports shall be updated annually, shall pertain to the individual's ability to improve and safeguard his own health; shall include material, accompanied by suitable illustrations, on child care, family life and human development, disease prevention (particularly prevention of pulmonary disease, cardiovascular disease, and cancer), physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health, management of chronic diseases (including diabetes and arthritis), and venereal diseases; and shall be designed to reach populations of different languages and of different social and economic backgrounds.

(2) Securing the cooperation of the communication media, providers of health care, schools, and others in activities designed to promote and encourage the use of health maintaining information and behavior.

(3) The study of health information and promotion in advertising and the making to concerned Federal agencies and others such recommendations respecting such advertising as are appropriate.

(4) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others (except individual health practitioners) of information for use by the public respecting the cost and quality of health care, including information to enable the public to make comparisons of the cost and quality of health care.



(5) The development of models and standards for the publication by States, insurance carriers, pre-paid health plans, and others of information for use by the public respecting health insurance policies and prepaid health plans, including information on the benefits provided by the various types of such policies and plans, the premium charges for such policies and plans, exclusions from coverage or eligibility for coverage, cost sharing requirements, and the ratio of the amounts paid as benefits to the amounts received as premiums and information to enable the public to make relevant comparisons of the costs and benefits of such policies and plans.

(6) Assess, with respect to the effectiveness, safety, cost, and required training for and conditions of use, of new aspects of health care and new activities, programs, and services designed to improve human health and publish in readily understandable language for public and professional use such assessments and, in the case of controversial aspects of health care, activities, programs, or services, publish differing views or opinions respecting the effectiveness, safety, cost, and required training for and conditions of use, of such aspects of health care, activities, programs, or services.

#### REPORT AND STUDY

SEC. 1705. (a) The Secretary shall, not later than two years after the date of the enactment of this title and annually thereafter, submit to the President for transmittal to Congress a report on the status of health information and health promotion, preventive health services, and education in the appropriate use of health care. Each such report shall include—

42 U.S.C.  
300a-4

(1) a statement of the activities carried out under this title since the last report and the extent to which each such activity achieves the purposes of this title:

(2) an assessment of the manpower resources needed to carry out programs relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, and a statement describing the activities currently being carried out under this title designed to prepare teachers and other manpower for such programs:

(3) the goals and strategy formulated pursuant to section 1701(a) (1), the models and standards developed under this title, and the results of the study required by subsection (b) of this section: and

(4) such recommendations as the Secretary considers appropriate for legislation respecting health

information and health promotion, preventive health services, and education in the appropriate use of health care, including recommendations for revisions to and extension of this title.

(b) The Secretary shall conduct a study of health education services and preventive health services to determine the coverage of such services under public and private health insurance programs, including the extent and nature of such coverage and the cost sharing requirements required by such programs for coverage of such services.

#### OFFICE OF HEALTH INFORMATION AND HEALTH PROMOTION

42 U.S.C.  
300u-5

SEC. 1706. The Secretary shall establish within the Office of the Assistant Secretary for Health an Office of Health Information and Health Promotion which shall—

- (1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;
- (2) coordinate its activities with similar activities of organizations in the private sector; and
- (3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters.

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MENTAL RETARDATION FACILITIES AND COMMUNITY  
MENTAL HEALTH CENTERS CONSTRUCTION ACT OF  
1963

TITLE I—DEVELOPMENTAL DISABILITIES SERVICES  
AND FACILITIES CONSTRUCTION ACT





**MENTAL RETARDATION FACILITIES AND  
COMMUNITY HEALTH CENTERS CON-  
STRUCTION ACT OF 1963**

[Public Law 88-164, Approved Oct. 31, 1963]

AN ACT To provide assistance in combating mental retardation through grants for construction of research centers and grants for facilities for the mentally retarded and assistance in improving mental health through grants for construction of community mental health centers, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

# TITLE I—SERVICES AND FACILITIES FOR THE MENTALLY RETARDED AND PERSONS WITH OTHER DEVELOPMENTAL DISABILITIES

## PART A—GENERAL PROVISIONS

### SHORT TITLE

42 U.S.C.  
6001 note

SEC. 101. This title may be cited as the “Developmental Disabilities Services and Facilities Construction Act.”

### DEFINITIONS

42 U.S.C. 6001

SEC. 102. For purposes of this title:

(1) The term “State” includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(2) The term “facility for persons with developmental disabilities” means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

(3) The terms “nonprofit facility for persons with developmental disabilities” and “nonprofit private institution of higher learning” mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term “nonprofit private agency or organization” means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

(4) The term “construction” includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect’s fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

(5) The term “cost of construction” means the amount found by the Secretary to be necessary for the construction of a project.

(6) The term “title”, when used with reference to a site for a project, means a fee simple, or such other estate



or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

(7) The term "developmental disability" means a disability of a person which—

(A) (i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism;

(ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

(iii) is attributable to dyslexia resulting from a disability described in clause (i) or (ii) of this subparagraph;

(B) originates before such person attains age eighteen;

(C) has continued or can be expected to continue indefinitely; and

(D) constitutes a substantial handicap to such person's ability to function normally in society.

(8) The term "services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability; and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

(9) The term "satellite center" means an entity which is associated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facilities in the delivery of training, services, and programs to the developmentally disabled and their families, to personnel of State agencies concerned with developmental disabilities, and to others responsible for the care of persons with developmental disabilities.

(10) The term "university affiliated facility" means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which

aids in demonstrating the provision of specialized services for the diagnosis and treatment of persons with developmental disabilities and which provides education and training (including interdisciplinary training) of personnel needed to render services to persons with developmental disabilities.

(11) The term "Secretary" means the Secretary of Health, Education, and Welfare.

#### FEDERAL SHARE

42 U.S.C. 6002

SEC. 103. (a) The Federal share of any project to be provided through grants under part B and allotments under part C may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined.

(b) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

(c) For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under part C or by a university-affiliated facility or a satellite center, as the case may be, in the case of a project assisted under part B.

#### STATE CONTROL OF OPERATIONS

42 U.S.C. 6003

SEC. 104. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this title.

#### RECORDS AND AUDIT

42 U.S.C. 6004

SEC. 105. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this title that are pertinent to such assistance.

#### EMPLOYMENT OF HANDICAPPED INDIVIDUALS

SEC. 106. As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts. 42 U.S.C. 6005

#### RECOVERY

SEC. 107. If any facility with respect to which funds have been paid under part B or C shall, at any time within twenty years after the completion of construction— 42 U.S.C. 6006

(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

(2) cease to be a public or other nonprofit facility for persons with developmental disabilities, the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by him, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities.

#### NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

SEC. 108. (a) (1) There is established a National Advisory Council on Services and Facilities for the Develop- 42 U.S.C. 6007



mentally Disabled (hereinafter in this section referred to as the "Council") which shall consist of nine ex officio members and sixteen members appointed by the Secretary. The ex officio members of the Council are the Deputy Commissioner of the Bureau of Education for the Handicapped, the Commissioner of Rehabilitation Services Administration, the Administrator of the Social and Rehabilitation Service, the Director of the National Institute of Child Health and Human Development, the Director of the National Institute of Neurological Disease and Stroke, the Director of the National Institute of Mental Health, and three other representatives of the Department of Health, Education, and Welfare selected by the Secretary. The appointed members of the Council shall be selected from persons who are not full-time employees of the United States and shall be selected without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall be selected from advocates in the field of services to persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons. At least five such members shall be representatives of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and at least five other such members shall be persons with developmental disabilities or the parents or guardians of such persons.

(2) The Secretary shall from time to time designate one of the appointed members to serve as Chairman of the Council.

(3) The Council shall meet at least twice a year.

(4) The Federal Advisory Committee Act shall not apply with respect to the duration of the Council.

(b) Each appointed member of the Council shall hold for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An individual who has served as a member of the Council may not be reappointed to the Council before two years has expired since the expiration of his last term of office as a member.

(c) It shall be the duty and function of the Council to—

(1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by the Secretary in the implementation of the provisions of this title;

(2) study and evaluate programs authorized by this title to determine their effectiveness in carrying out the purposes for which they were established;

(3) monitor the development and execution of this title and report directly to the Secretary any delay in the rapid execution of this title;

(4) review grants made under this title and advise the Secretary with respect thereto; and

(5) submit to the Congress annually an evaluation of the efficiency of the administration of the provisions of this title.

(d) The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare as it may require to carry out such functions.

(e) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate provided for GS-18 of the General Schedule for each day of such service (including travel time), and, while so serving away from their homes or regular places of business, all of the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

#### REGULATIONS

SEC. 109. The Secretary, as soon as practicable, by 42 U.S.C. 6008  
general regulations applicable uniformly to all the States, shall prescribe—

(1) the kinds of services which are needed to provide adequate programs for persons with developmental disabilities, the kinds of services which may be provided under a State plan approved under part C, and the categories of persons for whom such services may be provided;

(2) standards as to the scope and quality of services provided for persons with developmental disabilities under a State plan approved under part C;

(3) the general manner in which a State, in carrying out its State plan approved under part C, shall determine priorities for services and facilities based on type of service, categories of persons to be served, and type of disability, with special consideration being given to the needs for such services and facilities in areas of urban and rural poverty; and

(4) general standards of construction and equipment for facilities of different classes and in different types of location.

Regulations of the Secretary shall provide for approval of an application submitted by a State for a project to be completed by two or more political subdivisions, by two or more public or nonprofit private entities, or by any combination of such subdivisions and entities. Within one hundred and eighty days of the date of the enactment of any amendments to this title, the Secretary shall promulgate such regulations as may be required for implementation of such amendments.

#### EVALUATION SYSTEM

42 U.S.C. 6009

SEC. 110. (a) The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, shall within two years of the date of the enactment of the Developmentally Disabled Assistance and Bill of Rights Act develop a comprehensive system for the evaluation of services provided to persons with developmental disabilities through programs (including residential and nonresidential programs) assisted under this title. Within six months after the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this title, that each State submit to the Secretary, in such form and manner as he shall prescribe, a time-phased plan for the implementation of such a system. Within two years after the date of the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this title, that each State provide assurances satisfactory to the Secretary that the State is using such a system.

(b) The evaluation system to be developed under subsection (a) shall—

(1) provide objective measures of the developmental progress of persons with developmental disabilities using data obtained from individualized habilitation plans as required under section 112 or other comparable individual data;

(2) provide a method of evaluating programs providing services for persons with developmental disabilities which method uses the measures referred to in paragraph (1); and

(3) provide effective measures to protect the confidentiality of records of, and information describing, persons with developmental disabilities.

(c) Not later than two years after the date of the Developmentally Disabled Assistance and Bill of Rights Act, the Secretary shall submit to the Congress a report on the evaluation system developed pursuant to subsection (a). Such report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.



(d) The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, may make grants to public and private nonprofit entities and may enter into contracts with individuals and public and nonprofit private entities to assist in developing the evaluation to be developed under subsection (a), except that such a grant or contract may not be entered into with entities or individuals who have any financial or other direct interest in any of the programs to be evaluated under such a system. Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

#### RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 111. Congress makes the following findings respecting the rights of persons with developmental disabilities: 42 U.S.C. 6010

(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

(B) does not meet the following minimum standards;

(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

(ii) Provision to such persons of appropriate and sufficient medical and dental services.

(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

(iv) Prohibition on the excessive use of chemical restraints on such persons and the

use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs.

#### HABILITATION PLANS

42 U.S.C. 6011

SEC. 112. (a) The Secretary shall require as a condition to a State's receiving an allotment under part C after September 30, 1976, that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under such part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection

(b), and (2) provides for an annual review, in accordance with subsection (c), of each such plan.

(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

(1) The plan shall be in writing.

(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (C) where appropriate, such person's parents or guardian or other representative.

(3) Such plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

(c) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision.

#### PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 113. (a) The Secretary shall require as a condition to a State receiving an allotment under part C for a fiscal year ending before October 1, 1977, that the State provide the Secretary satisfactory assurances that not later than such date (1) the State will have in effect a system



to protect and advocate the rights of persons with development disabilities, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (B) be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary may not make an allotment under part C to a State for a fiscal year beginning after September 30, 1977, unless the State has in effect a system described in the preceding sentence.

(b) (1) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the sums appropriated under paragraph (2). Such allotments shall be made in accordance with subsections (a) (1) (A) and (d) of section 132.

(2) For allotments under paragraph (1), there are authorized to be appropriated \$3,000,000 for fiscal year 1976, \$3,000,000 for fiscal year 1977, and \$3,000,000 for fiscal year 1978.

## PART B—UNIVERSITY AFFILIATED FACILITIES

### Subpart 1—Demonstration and Training Grants

#### GRANT AUTHORITY

42 U.S.C. 6031

SEC. 121. (a) (1) From appropriations under section 123, the Secretary shall make grants to university affiliated facilities to assist them in meeting the cost of administering and operating—

(A) demonstration facilities for the provision of services for persons with developmental disabilities, and

(B) interdisciplinary training programs for personnel needed to render specialized services for persons with development disabilities.

(2) A university affiliated facility which has received a grant under paragraph (1) may apply to the Secretary for an increase in the amount of its grant under such paragraph to assist it in meeting the cost of conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under paragraph (1), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility and which would provide, in coordination with demonstration facilities and training programs for which a grant was made under paragraph (1), services for persons with developmental disabilities. If the Secretary approves an application of a university affiliated

facility under this paragraph for such a study, the Secretary may for such study increase the amount of the facility's grant under paragraph (1) by an amount not to exceed \$25,000. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

(b) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under subsection (a) (2).

#### APPLICATIONS

SEC. 122. (a) No grant may be made under section 121 unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the making of the grant applied for will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which funds would (except for such grant) be available to the applicant, but that such grant will be used to supplement, and, to the extent practicable, to increase the level of such funds. 42 U.S.C. 6032

(b) The Secretary shall give special consideration to applications for grants under section 121(a) for programs which demonstrate an ability and commitment to provide within a community rather than in an institution services for persons with developmental disabilities.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 123. (a) For the purpose of making grants under section 121 there are authorized to be appropriated \$15,000,000 for fiscal year 1976, \$18,000,000 for fiscal year 1977, and \$21,000,000 for fiscal year 1978. 42 U.S.C. 6033

(b) (1) Of the sums appropriated under subsection (a) for fiscal years 1976 and 1977, not less than \$5,000,000 shall be made available for grants in each such fiscal year under section 121(a) (1). The remainder of the sums appropriated for such fiscal years shall be made available as follows:

(A) First, \$750,000 shall be made available in each such fiscal year for studies described in section 121

(a) (2). The portion of such \$750,000 not required for such studies shall be made available for grants under section 121(a) (1).

(B) Second, any remaining sums shall be made available as the Secretary determines except that at least 40 per centum of such sums shall be made available for grants under section 121(b).

(2) Of the sums appropriated under subsection (a) for fiscal year 1978, not less than \$5,500,000 shall be made available for grants in such fiscal year under section 121(a) (1). The remainder of the sums appropriated for such fiscal year shall be made available as the Secretary determines except that at least 40 per centum of the remainder shall be made available for grants under section 121(b).

#### AMOUNT OF GRANTS; PAYMENTS

42 U.S.C. 2663

SEC. 124. (a) The total of the grants with respect to any project under this part may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary.

(b) Payments of grants under this part shall be made in advance or by way of reimbursement, and on such conditions as the Secretary may determine.

#### Subpart 2—Construction

##### PROJECTS AUTHORIZED

42 U.S.C. 6041

SEC. 125. The Secretary may make grants—

(1) to university-affiliated facilities to assist them in meeting the costs of the renovation or modernization of buildings which are being used in connection with an activity assisted by a grant under section 121(a); and

(2) to university-affiliated facilities for the construction, renovation, or modernization of buildings to be used as satellite centers.

##### APPLICATIONS

42 U.S.C. 6042

SEC. 126. No grant may be made under section 125 unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if it contains or is supported by reasonable assurances that—

(1) the plans and specifications for the project to be assisted by the grant applied for are in accord with regulations prescribed by the Secretary under section 109;



(2) title to the site for such project is or will be vested in the applicant or in the case of a grant for a satellite center, in a public or other nonprofit entity which is to operate the center;

(3) adequate financial support will be available for completion of the construction, renovation, or modernization of the project and for its maintenance and operation when completed;

(4) all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 267c); and

(5) the building which will be constructed, renovated, or modernized with the grant applied for will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968).

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 127. For the purpose of making payments under grants under section 125, there are authorized to be appropriated \$3,000,000 for fiscal year 1976, \$3,000,000 for fiscal year 1977, and \$3,000,000 for fiscal year 1978. 42 U.S.C. 6043

#### PART C—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

##### AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

SEC. 131. For allotments under section 132, there are authorized to be appropriated \$40,000,000 for fiscal year 1976, \$50,000,000 for fiscal year 1977, and \$60,000,000 for fiscal year 1978. 42 U.S.C. 6061

##### STATE ALLOTMENTS

SEC. 132. (a) (1) (A) In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 131 among the States on the basis of— 42 U.S.C. 2672

(i) the population,

(ii) the extent of need for services and facilities for persons with developmental disabilities, and

(iii) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 133 for the provision under such plans of services and facilities for persons with developmental disabilities.

(B) (i) Except as provided by clause (ii)—

(I) the allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands under subparagraph (A) of this paragraph in any fiscal year shall not be less than \$50,000; and

(II) the allotment of each other State in any fiscal year shall not be less than the greater of \$150,000, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending June 30, 1974.

(ii) If the amount appropriated under section 131 for any fiscal year exceeds \$50,000,000, the minimum allotment of a State for such fiscal year shall be increased by an amount which bears the same ratio to the amount determined for such State under clause (i) as the difference between the amount so appropriated and the amount authorized to be appropriated for such fiscal year bears to \$50,000,000.

(2) In determining, for purposes of paragraph (1) (A) (ii), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 133(b) (5), in the State plan of such State approved under section 133.

(3) Sums allotted to a State in a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted to such State in such next fiscal year; except that if the maximum amount which may be specified for construction (pursuant to section 133(b) (15)) for a year plus any part of the amount so specified pursuant to such section for the preceding fiscal year and remaining unobligated at the end of such fiscal year is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 133(b) (13), the amount specified pursuant to section 133(b) (15) for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

(4) Of the amount allotted to any State under paragraph (1) for fiscal year 1976, not less than 10 per centum of that allotment shall be used by such State, in accordance with the plan submitted pursuant to section 133(b)

(20), for the purpose of assisting it in developing and implementing plans designed to eliminate inappropriate placement in institutions of persons with developmental disabilities; and of the amount allotted to any State under paragraph (1) for each succeeding fiscal year, not less than 30 per centum of that allotment shall be used by such State for such purpose.

(b) Whenever the State plan approved in accordance with section 134 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of the State plan will receive proportionate benefit from the combination.

(c) Whenever the State plan approved in accordance with section 134 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.

(d) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallocation by the Secretary from time to time, on such date or dates as he may fix (but not earlier than thirty days after he has published notice of his intention to make such reallocation in the Federal Register), to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amount so reallocated to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

#### STATE PLANS

SEC. 133. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.



(b) In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must—

(1) designate (A) a State Planning Council as prescribed by section 137, to be responsible for submitting revisions of the State plan and transmitting such reports as may be required by the Secretary; (B) except as provided in clause (C), the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise); and (C) a single State agency as the sole agency for administering or supervising the administration of grants for construction under the State plan, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(2) describe (A) the quality, extent, and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as may be specified by the Secretary, but in any case including education for the handicapped vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans, and (B) how funds allotted to the State in accordance with section 132 will be used to complement and augment rather than duplicate or replace services and facilities for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

(3) set forth priorities, policies, and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to assure effective continuing State planning, evaluation, and delivery of services (both public and private) for persons with developmental disabilities;

(4) contain or be supported by assurances satisfactory to the Secretary that (A) the funds paid to the State under section 132 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State in order to improve the quality, scope, and extent of such services; (B) part of such funds will be made available to other public or nonprofit private agencies, institutions, and organizations; (C) such funds will be

used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be provided in implementing the State plan to per-Federal funds are provided and not to supplant such non-Federal funds; and (D) there will be reasonable State financial participation in the cost of carrying out the State plan;

(5) describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to persons with developmental disabilities;

(6) provide that services and facilities furnished under the plan for persons with developmental disabilities will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services and the maintenance and operation of such facilities, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

(7) include provisions, meeting such requirements as the United States Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis;

(8) provide that the State Planning Council be adequately staffed and identify the staff assigned to the Council;

(9) provide that the State Planning Council will from time to time, but not less often than annually, review and evaluate its State plan approved under this section and submit appropriate modifications to the Secretary;

(10) provide that the State agencies designated pursuant to paragraph (1) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(11) provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas;

(12) describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with developmental disabilities in the State;

(13) provide for the development of a program of construction of facilities for the provision of services for persons with developmental disabilities

which (A) is based on a statewide inventory of existing facilities and survey of need; and (B) meets the requirements prescribed by the Secretary for furnishing needed services to persons unable to pay therefor;

(14) set forth the relative need, determined in accordance with regulations prescribed by the Secretary, for the several projects included in the construction program referred to in paragraph (13), assign priority to the construction of projects, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need, and require that construction of projects be done in accordance with standards prescribed by the Secretary pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968);

(15) specify the per centum of the State's allotment (under section 132) for any year which is to be devoted to construction of facilities, which per centum shall be not more than 10 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe;

(16) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

(17) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part;

(18) provide reasonable assurance that adequate financial support will be available to complete the construction of, and to maintain and operate when such construction is completed, any facility, the construction of which is assisted with sums allotted under section 132;

(19) provide reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project assisted with sums allotted under section 132 will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(20) contain a plan designed (A) to eliminate inappropriate placement in institutions of persons with



developmental disabilities, and (B) to improve the quality of care and the state of surroundings of persons for whom institutional care is appropriate;

(21) provide for the early screening, diagnosis, and evaluation (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training) and developmentally disabled infants and preschool children, particularly those with multiple handicaps;

(22) provide for counseling, program coordination, follow-along services, protective services, and personal advocacy on behalf of developmentally disabled adults;

(23) support the establishment of community programs as alternatives to institutionalizations and support such programs which are designed to provide services for the care and habilitation of persons with developmental disabilities, and which utilize, to the maximum extent feasible, the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational, or social services for persons with developmental disabilities;

(24) contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected;

(25) provide for a design for implementation which shall include details on the methodology of implementation of the State plan, priorities for spending of funds provided under this part, a detailed plan for the use of such funds, specific objectives to be achieved under the State plan, a listing of the programs and resources to be used to meet such objectives, and a method for periodic evaluation of the design's effectiveness in meeting such objectives;

(26) provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93-113) and other appropriate voluntary organizations except that volunteer services shall supplement, but shall not be in lieu of, services of paid employees;

(27) provide for the implementation of an evaluation system in accordance with the system developed under section 110;

(28) provide, to the maximum extent feasible, an opportunity for prior review and comment by the State Planning Council of all State plans of the State which relate to programs affecting persons with developmental disabilities;

(29) provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions to carry out the plan described in paragraph (20) (A), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees; and

(30) contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d) (1) At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or \$50,000, whichever is less, shall be available for such purpose. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1975.

PAYMENTS TO THE STATES FOR PLANNING, CONSTRUCTION,  
ADMINISTRATION AND SERVICES

42 U.S.C. 6064

SEC. 134. (a) From each State's allotments for a fiscal year under section 132, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis

of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

(b) (1) Upon certification to the Secretary by the State agency, designated pursuant to section 133(b) (1), based upon inspection by it, that work has been performed upon a construction project, or purchases have been made for such project, in accordance with the approved plans and specifications and that payment of an installment is due to the applicant, such installment shall be paid to the State with respect to such project, from the applicable allotment of such State, except that (A) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (B) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 135, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (C) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

(2) In case the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such revision is approved.

#### WITHHOLDING OF PAYMENTS FOR PLANNING, CONSTRUCTION, ADMINISTRATION, AND SERVICES

SEC. 135. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Planning Council and the appropriate State agency, designated pursuant to section 133(b) (1) finds that—

42 U.S.C. 606j

(1) there is a failure to comply substantially with any of the provisions required by section 133 to be included in the State plan; or

(2) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this part,

the Secretary shall notify such State Council and agency or agencies that further payments will not be made to the State under section 132 (or, in his discretion, that further payments will not be made to the State under section 132 for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment to the State under section 132, or shall limit further



payment under section 132 to such State to activities in which there is no such failure.

(b) The State Planning Council of a State shall review the State's plan (including the design for implementation of such plan) under section 133 and the actions of the State under such plan for the purpose of determining if the State is complying with the requirements of the plan (and its design for implementation). For the purpose of assisting the Secretary in the implementation of this section, a State Planning Council may notify the Secretary of the results of any review carried out under this subsection.

#### NONDUPLICATION

42 U.S.C. 6066

SEC. 136. In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 133, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 132, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

#### STATE PLANNING COUNCILS

42 U.S.C. 6067

SEC. 137. (a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's State Planning Council shall be appointed by the Governor of such State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to persons with developmental disabilities. At least one-third of the membership of such a Council shall consist of persons with developmental disabilities, or their parents or guardians, who are not officers of any entity, or employees of any State agency or of any other entity, which receives funds or provides services under this part.

(b) The State Planning Council shall—

(1) supervise the development of and approve the State plan required by this part;

(2) monitor and evaluate the implementation of such State plan;

(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities, and

(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request.

(c) Each State receiving assistance under this part shall provide for the assignment to its State Planning Council of personnel adequate to insure that the Council has the capacity to fulfill its responsibilities under subsection (b).

#### APPLICATIONS AND CONDITIONS FOR APPROVAL

SEC. 138. If any State is dissatisfied with the Secretary's action under section 133(c) or section 135, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action. 42 U.S.C. 6068

#### PART D—SPECIAL PROJECT GRANTS

##### GRANT AUTHORITY

SEC. 145. (a) The Secretary, after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled, may make project grants to public or nonprofit private entities for— 42 U.S.C. 6081

(1) demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise im-

proving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped), including programs for parent counseling and training, early screening and intervention, infant and preschool children, seizure control systems, legal advocacy, and community based counseling, care, housing, and other services or systems necessary to maintain a person with developmental disabilities in the community;

(2) public awareness and public education programs to assist in the elimination of social, attitudinal, and environmental barriers confronted by persons with developmental disabilities;

(3) coordinating and using all available community resources in meeting the needs of persons with developmental disabilities (especially those from disadvantaged backgrounds);

(4) demonstrations of the provision of services to persons with developmental disabilities who are also disadvantaged because of their economic status;

(5) technical assistance relating to services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration respecting such services and facilities;

(6) training of specialized personnel needed for the provision of services for persons with developmental disabilities or for research directly related to such training;

(7) developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities (including model integrated service projects);

(8) gathering and disseminating information relating to developmental disabilities; and

(9) improving the quality of services provided in and the administration of programs for such persons.

(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless the State in which the applicant's project will be conducted has a State plan approved under part C. The Secretary shall provide to the State Planning Council for the State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments thereon.

(c) Payments under grants under subsection (a) may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary



funds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary. In determining the amount of any grant under subsection (a) for the costs of any project, there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(d) For the purpose of making payments under grants under subsection (a), there are authorized to be appropriated \$18,000,000 for fiscal year 1976, \$22,000,000 for fiscal year 1977, and \$25,000,000 for fiscal year 1978.

(e) Of the funds appropriated under subsection (d) for any fiscal year, not less than 25 per centum of such funds shall be used for projects which the Secretary determines (after consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled) are of national significance.

(f) No funds appropriated under the Public Health Service Act, under this Act (other than under subsection (d) of this section), or under section 304 of the Rehabilitation Act of 1973 may be used to make grants under subsection (a).



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TITLE II—COMMUNITY MENTAL HEALTH CENTERS  
ACT

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(547)





## TITLE II—COMMUNITY MENTAL HEALTH CENTERS

### PART A—PLANNING AND OPERATIONS ASSISTANCE

#### REQUIREMENTS FOR COMMUNITY MENTAL HEALTH CENTERS

42 U.S.C. 2689

SEC. 201. (a) For purposes of this title (other than part B thereof), the term "community mental health center" means a legal entity (1) through which comprehensive mental health services are provided—

(A) principally to individuals residing in a defined geographic area (referred to in this title as a "catchment area"),

(B) within the limits of its capacity, to any individual residing or employed in such area regardless of his ability to pay for such services, his current or past health condition, or any other factor, and

(C) in the manner prescribed by subsection (b), and (2) which is organized in the manner prescribed by subsections (c) and (d).

(b)(1) The comprehensive mental health services which shall be provided through a community mental health center shall include—

(A) inpatient services, outpatient services, day care and other partial hospitalization services, and emergency services;

(B) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(C) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(D) consultation and education services which—

(i) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

(ii) include a wide range of activities (other than the provision of direct clinical services) designed to (I) develop effective mental health programs in the center's catchment area, (II) promote the coordination of the provision of

mental health services among various entities serving the center's catchment area, (III) increase the awareness of the residents of the center's catchment area of the nature of mental health problems and the types of mental health services available, and (IV) promote the prevention and control of rape and the proper treatment of the victims of rape;

(E) assistance to courts and other public agencies in screening residents of the center's catchment area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

(F) provision of followup care for residents of its catchment area who have been discharged from a mental health facility;

(G) a program of transitional half-way house services for mentally ill individuals who are residents of its catchment area and who have been discharged from a mental health facility or would without such services require inpatient care in such a facility; and

(H) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's catchment area, or the need for which in the center's catchment area the Secretary determines is currently being met):

(i) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

(ii) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.

(2) The provision of comprehensive mental health services through a center shall be coordinated with the provision of services by other health and social service agencies (including State mental health facilities) in or serving residents of the center's catchment area to insure that persons receiving services through the center have access to all such health and social services as they may require. The center's services (A) may be provided at the center or satellite centers through the staff of the center or through appropriate arrangements with health professionals and others in the center's catchment area, (B) shall be available and accessible to the residents of the area promptly, as appropriate, and in a manner which



preserves human dignity and assures continuity and high quality care and which overcomes geographic, cultural, linguistic, and economic barriers to the receipt of services, and (C) when medically necessary, shall be available and accessible twenty-four hours a day and seven days a week.

(c) (1) (A) The governing body of a community mental health center (other than a center described in subparagraph (B)) shall (i) be composed, where practicable, of individuals who reside in the center's catchment area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) meet at least once a month, establish general policies for the center (including a schedule of hours during which services will be provided), approve the center's annual budget, and approve the selection of a director for the center. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) In the case of a community mental health center which before the date of enactment of the Community Mental Health Centers Amendments of 1975 was operated by a governmental agency and received a grant under section 220 (as in effect before such date), the requirements of subparagraph (A) shall not apply with respect to such center, but the governmental agency operating the center shall appoint a committee to advise it with respect to the operations of the center, which committee shall be composed of individuals who reside in the center's catchment area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(2) For purposes of subparagraphs (A) and (B) of paragraph (1), the term "provider of health care" means an individual—

(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, or physician assistant) in that (i) the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, out-patient facilities, and health maintenance organizations) in which such care is provided, and (ii) when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration; or

(B) who is an indirect provider of health care in that the individual—

(i) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subclause (II) or (IV) of clause (ii);

(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

(I) Fees or other compensation for research into or instruction in the provision of health care.

(II) Entities engaged in the provision of health care or in such research or instruction.

(III) Producing or supplying drugs or other articles for individuals or entities for use in the provision of, in research into, or instruction in the provision of, health care.

(IV) Entities engaged in producing drugs or such other articles.

(iii) is a member of the immediate family of an individual described in subparagraph (A) or in clause (i), (ii), or (iv) of subparagraph (B); or

(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

(d) A center shall have established, in accordance with regulations prescribed by the Secretary, (1) an ongoing quality assurance program (including utilization and peer review systems) respecting the center's services, (2) an integrated medical records system (including a drug use profile) which, in accordance with applicable Federal and State laws respecting confidentiality, is designed to provide access to all past and current information regarding the health status of each patient and to maintain safeguards to preserve confidentiality and to protect the rights of the patient, (3) a professional advisory board, which is composed of members of the center's professional staff, to advise the governing board in establishing policies governing medical and other services provided by such staff on behalf of the center, and (4) an identifiable administrative unit which shall be responsible for providing the consultation and education services described in subsection (b)(1)(D). The Secretary may waive the requirements of clause (4) with respect to any center if he determines that because of the size of such center or because of other relevant factors the establishment of the administrative unit described in such clause is not warranted.

GRANTS FOR PLANNING COMMUNITY MENTAL HEALTH  
CENTER PROGRAMS

SEC. 202. (a) The Secretary may make grants to public and nonprofit private entities to carry out projects to plan community mental health center programs. In connection with a project to plan a community mental health center program for an area the grant recipient shall (1) assess the needs of the area for mental health services, (2) design a community mental health center program for the area based on such assessment, (3) obtain within the area financial and professional assistance and support for the program, and (4) initiate and encourage continuing community involvement in the development and operation of the program. The amount of any grant under this subsection may not exceed \$75,000. 42 U.S.C. 2689a

(b) A grant under subsection (a) for a project shall be made for its costs for the one-year period beginning on the first day of the month in which the grant is made; and, if a grant is made under such subsection for a project, no other grant may be made for such project under such subsection.

(c) The Secretary shall give special consideration to applications submitted for grants under subsection (a) for projects for community mental health centers programs for areas designated by the Secretary as urban or rural poverty areas. No applications for a grant under subsection (a) may be approved unless the application is recommended for approval by the National Advisory Mental Health Council.

(d) There are authorized to be appropriated for payments under grants under subsection (a) \$3,750,000 for the fiscal year 1976, \$3,750,000 for the fiscal year ending September 30, 1977, and \$1,930,000 for the fiscal year ending on September 30, 1978.

GRANTS FOR INITIAL OPERATION

SEC. 203. (a) (1) The Secretary may make grants to— 42 U.S.C. 2689b

(A) public and nonprofit private community mental health centers, and

(B) any public or nonprofit private entity which—

(i) is providing mental health services,

(ii) meets the requirements of section 201 except that it is not providing all of the comprehensive mental health services described in subsection (b) (1) of such section, and

(iii) has a plan satisfactory to the Secretary for the provision of all such services within two years after the date of the receipt of the first grant under this subsection,

to assist them in meeting their costs of operation (other than costs related to construction).



(2) Grants under subsection (a) may only be made for a grantee's costs of operation during the first eight years after its establishment. In the case of a community mental health center or other entity which received a grant under section 220 (as in effect before the date of enactment of the Community Mental Health Centers Amendments of 1975), such center or other entity shall, for purposes of grants under subsection (a), be considered as having been in operation for a number of years equal to the sum of the number of grants in the first series of grants it received under such section and the number of grants it has received under this subsection.

(b)(1) Each grant under subsection (a) to a community mental health center or other entity shall be made for the costs of its operation for the one-year period beginning on the first day of the month in which such grant is made.

(2) No community mental health center may receive more than eight grants under subsection (a). No entity described in subsection (a)(1)(B) may receive more than two grants under subsection (a). In determining the number of grants that a community mental health center has received under subsection (a), there shall be included any grants which the center received under such subsection as an entity described in paragraph (1)(B) of such subsection.

(c) The amount of a grant for any year made under subsection (a) shall be the lesser of the amounts computed under paragraph (1) or (2) as follows:

(1) An amount equal to the amount by which the grantee's projected costs of operation for that year exceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the grantee may reasonably be expected to collect in that year.

(2)(A) Except as provided in subparagraph (B), an amount equal to the following percentages of the grantee's projected costs of operation: 80 per centum of such costs for the first year of its operation, 65 per centum of such costs for the second year of its operation, 50 per centum of such costs for the third year of its operation, 35 per centum of such costs for the fourth year of its operation, 30 per centum of such costs for the fifth and sixth years of its operation, and 25 per centum of such costs for the seventh and eighth years of its operation.

(B) In the case of a grantee providing services for persons in an area designated by the Secretary as an urban or rural poverty area, an amount equal to the following percentages of the grantee's projected

costs of operation: 90 per centum of such costs for the first two years of its operation, 80 per centum of such costs for the third year of its operation, 70 per centum of such costs for the fourth year of its operation, 60 per centum of such costs for the fifth year of its operation, 50 per centum of such costs for the sixth year of its operation, 40 per centum of such costs for the seventh year of its operation, and 30 per centum of such costs for the eighth year of its operation.

In any year in which a grantee receives a grant under section 204 for consultation and education services, the costs of the grantee's operation for that year attributable to the provision of such services and its collections in that year for such services shall be disregarded in making a computation under paragraph (1) or (2) respecting a grant under subsection (a) for that year.

(d) (1) There are authorized to be appropriated for payments under initial grants under subsection (a) \$50,000,000 for fiscal year 1976, \$55,000,000 for the fiscal year ending September 30, 1977, and \$38,890,000 for the fiscal year ending September 30, 1978.

(2) For fiscal year 1978, and for each of the succeeding seven fiscal years, there are authorized to be appropriated such sums as may be necessary to make payments under continuation grants under subsection (a) to community mental health centers and other entities which first received an initial grant under this section for fiscal year 1976, or the next two fiscal years and which are eligible for a grant under this section in a fiscal year for which sums are authorized to be appropriated under this paragraph.

(e) (1) Any entity which has not received a grant under subsection (a), which received a grant under section 220, 242, 243, 251, 256, 264, or 271 of this title (as in effect before the date of enactment of the Community Mental Health Centers Amendments of 1975) from appropriations under this title for a fiscal year ending before July 1, 1975, and which would be eligible for another grant under such section from an appropriation for a succeeding fiscal year if such section were not repealed by the Community Mental Health Centers Amendments of 1975 may, in lieu of receiving a grant under subsection (a) of this section, continue to receive a grant under each such repealed section under which it would be so eligible for another grant—

(A) for the number of years and in the amount prescribed for the grant under each such repealed section, except that—

(i) the entity may not receive under this subsection more than three grants under any such repealed section unless it meets the requirements of section 201, and

(ii) the total amount received for any year (as determined under regulations of the Secretary) under the total of the grants made to the entity under this subsection may not exceed the amount by which the entity's projected costs of operation for that year exceed the total collections of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the entity may reasonably be expected to make in that year; and

(B) in accordance with any other terms and conditions applicable to such grant.

In any year in which a grantee under this subsection receives a grant under section 204 for consultation and education services, the staffing costs of the grantee for that year which are attributable to the provision of such services and the grantee's collections in that year for such services shall be disregarded in applying subparagraph (A) and the provisions of the repealed section applicable to determining the amount of the grant the grantee may receive under this subsection for that year.

(2) An entity which receives a grant the authority for which is provided by this subsection may not receive any grant under subsection (a).

(3) There are authorized to be appropriated for fiscal year 1976, and for each of the next six fiscal years such sums as may be necessary to make grants in accordance with paragraph (1).

(f) Unless otherwise specifically provided, a reference in this title to a grant under section 203 includes a grant under subsection (a) of this section and a grant the authority for which is provided by subsection (e) of this section.

#### GRANTS FOR CONSULTATION AND EDUCATION SERVICES

42 U.S.C. 2689c SEC. 204. (a)(1) The Secretary may make annual grants to any community mental health center for the costs of providing the consultation and education services described in section 201(b)(1)(D) if the center—

(A) received from appropriations for a fiscal year ending before July 1, 1975, a staffing grant under section 220 of this title (as in effect before the date of enactment of the Community Mental Health Centers Amendments of 1975) and may not because of limitations respecting the period for which grants under that section may be made receive under section 203(e) an additional grant under such section 220; or

(B) has received or is receiving a grant under section 203 and the number of years in which the center



has been in operation (as determined in accordance with section 203(a)(2)) is not less than four (or is not less than two if the Secretary determines that the center will be unable to adequately provide the consultation and education services described in section 201(b)(1)(D) during the third or fourth years of its operation without a grant under this subsection).

(2) The Secretary may also make annual grants to a public or non-profit private entity—

(A) which has not received any grant under this title (other than a grant under this section as amended by the Community Mental Health Centers Amendments of 1975),

(B) which meets the requirements of section 201 except, in the case of an entity which has not received a grant under this section, the requirement for the provision of consultation and education services described in section 201(b)(1)(D), and

(C) the catchment area of which is not within (in whole or in part) the catchment area of a community mental health center,

for the costs of providing such consultation and education services.

(b) The amount of any grant made under subsection (a) shall be determined by the Secretary, but no such grant to a center may exceed the lesser of 100 per centum of such center's costs of providing such consultation and education services during the year for which the grant is made or—

(1) in the case of each of the first two years for which a center receives such grant, the sum of (A) an amount equal to the product of \$0.50 and the population of the center's catchment area, and (B) the lesser of (i) one-half the amount determined under clause (A), or (ii) one-half of the amount received by the center in such year from charges for the provision of such services;

(2) in the case of the third year for which a center receives such a grant, the sum of (A) an amount equal to the product of \$0.50 and the population of the center's catchment area, and (B) the lesser of (i) one-half the amount determined under clause (A), or (ii) one-fourth of the amount received by the center in such year from charges for the provision of such services; and

(3) (A) except as provided in subparagraph (B), in the case of the fourth year and each subsequent year thereafter for which a center receives such a grant, the lesser of (i) the sum of (I) an amount

equal to the product of \$0.125 and the population of the center's catchment area, and (II) one-eighth of the amount received by the center in such year from charges for the provision of such services, or (ii) \$50,000; or

(B) in the case of the fourth year and each subsequent year for which a center receives such a grant, the sum of (i) an amount equal to the product of \$0.25 and the population of the center's catchment area, and (ii) the lesser of (I) the amount determined under clause (i) of this subparagraph, or (II) one-fourth of the amount received by the center in such year from charges for the provision for such services if the amount of the last grant received by the center under section 220 of this title (as in effect before the date of the enactment of the Community Mental Health Centers Amendments of 1975) or section 203 of this title, as the case may be, was determined on the basis of the center providing services to persons in an area designated by the Secretary as an urban or rural poverty area.

For purposes of this subsection, the term "center" includes an entity which receives a grant under subsection (a) (2).

(c) There are authorized to be appropriated for payments under grants under this section \$10,000,000 for fiscal year 1976, \$15,000,000 for the fiscal year ending September 30, 1977, and \$15,000,000 for the fiscal year ending September 30, 1978.

#### CONVERSION GRANTS

42 U.S.C. 2689d

SEC. 205. (a) The Secretary may make not more than two grants to any public or nonprofit entity which—

(1) has an approved application for a grant under section 203 or 211, and

(2) can reasonably be expected to have an operating deficit, for the period for which a grant is or will be made under such application, which is greater than the amount of the grant the entity is receiving or will receive under such application,

for the entity's reasonable costs in providing mental health services which are described in section 201(b) (1) but which the entity did not provide before the date of the enactment of the Community Mental Health Centers Amendments of 1975.

(b) (1) Each grant under subsection (a) to an entity shall be made for the same period as the period for which the grant under section 203 or 211 for which the entity had an approved application is or will be made.

(2) The amount of any grant under subsection (a) to any entity shall be determined by the Secretary, but no such grant may exceed that part of the entity's projected

operating deficit for the year for which the grant is made which is reasonably attributable to its costs of providing in such year the services with respect to which the grant is made. For purposes of this paragraph, the term "projected operating deficit" means the excess of an entity's projected costs of operation (including the costs of operation related to the provision of services for which a grant may be made under subsection (a)) for a particular period over the total of the amount of State, local, and other funds (including funds under a grant under section 203, 204, or 211) received by the entity in that period and the fees, premiums, and third-party reimbursements which the entity may reasonably be expected to collect during that period.

(c) There are authorized to be appropriated for payments under grants under subsection (a) \$20,000,000 for fiscal year 1976, \$20,000,000 for the fiscal year ending September 30, 1977, and \$23,000,000 for the fiscal year ending September 30, 1978.

#### GENERAL PROVISIONS RESPECTING GRANTS UNDER THIS PART

SEC. 206. (a) (1) No grant may be made under this part to any entity or community mental health center in any State unless a State plan for the provision of comprehensive mental health services within such State has been submitted to, and approved by, the Secretary under section 237.

42 U.S.C. 2689e

(b) No grant may be made under this part unless an application (meeting the requirements of subsection (c)) for such grant has been submitted to, and approved by the Secretary.

(c) (1) An application for a grant under this part shall be submitted in such form and manner as the Secretary shall prescribe and shall contain such information as the Secretary may require. Except as provided in paragraph (3), an application for a grant under section 203, 204, or 205 shall contain or be supported by assurances satisfactory to the Secretary that—

(A) the community mental health center for which the application is submitted will provide, in accordance with regulations of the Secretary (i) an overall plan and budget that meets the requirements of section 1861(z) of the Social Security Act, and (ii) an effective procedure for developing, compiling, evaluating, and reporting to the Secretary statistics and other information (which the Secretary shall publish and disseminate on a periodic basis and which the center shall disclose at least annually to the general public) relating to (I) the cost of the center's operation, (II) the patterns of use of its services, (III) the availability, accessibility, and acceptability of its services, (IV) the im-



pact of its services upon the mental health of the residents of its catchment area, and (V) such other matters as the Secretary may require;

(B) such community mental health center will, in consultation with the residents of its catchment area, review its program of services and the statistics and other information referred to in subparagraph (A) to assure that its services are responsive to the needs of the residents of the catchment area;

(C) to the extent practicable, such community mental health center will enter into cooperative arrangements with health maintenance organizations serving residents of the center's catchment area for the provision through the center of mental health services for the members of such organizations under which arrangements the charges to the health maintenance organizations for such services shall be not less than the actual costs to the center of providing such services;

(D) in the case of a community mental health center serving a population including a substantial proportion of individuals of limited English-speaking ability, the center has (i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (ii) identified an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and and to appropriate staff members with respect to cultural sensitiveness and bridging linguistic and cultural differences;

(E) such community mental health center has (i) established a requirement that the health care of every patient must be under the supervision of a member of the professional staff, and (ii) provided for having a member of the professional staff available to furnish necessary mental health care in case of an emergency;

(F) such community mental health center has provided appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(G) in the case of an application for a grant under section 203 for a community mental health center which will provide services to persons in an area designated by the Secretary as an urban or rural poverty area, the applicant will use the additional grant funds it receives, because it will provide services to persons in such an area, to provide

services to persons in such area who are unable to pay therefor;

(H) such community mental health center will develop a plan for adequate financial support to be available and will use its best efforts to insure that adequate financial support will be available, to it from Federal sources (other than this part) and non-Federal sources (including, to the maximum extent feasible, reimbursement from the recipients of consultation and education services and screening services provided in accordance with sections 201(b) (1) (D) and 201(b) (1) (E)) so that the center will be able to continue to provide comprehensive mental health services when financial assistance provided under this part is reduced or terminated, as the case may be;

(I) such community mental health center (i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (ii) has made or will make every reasonable effort to enter into such an arrangement;

(J) such community mental health center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

(K) such community mental health center (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments which discounts are adjusted on the basis of the patient's ability to pay; (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such approved schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (J) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has sub-

mitted to the Secretary such reports as he may require to determine compliance with this subparagraph; and

(L) such community mental health center will adopt and enforce a policy (i) under which fees for the provision of mental health services through the center will be paid to the center, and (ii) which prohibits health professionals who provide such services to patients through the center from providing such services to such patients except through the center.

An application for a grant under section 203 shall also contain a long-range plan for the expansion of the program of the community mental health center for which the application is submitted for the purpose of meeting anticipated increases in demand by residents of the center's catchment area for the comprehensive mental health services described in section 201(b)(1). Such a plan shall include a description of planned growth in the programs of the center, estimates of increased costs arising from such growth, estimates of the portion of such increased costs to be paid from Federal funds, and anticipated sources of non-Federal funds to pay the portion of such increased costs not to be paid from Federal funds.

(2) The Secretary may approve an application for a grant under section 203, 204, or 205 only if the application is recommended for approval by the National Advisory Mental Health Council, the application meets the requirements of paragraph (1), and, except as provided in paragraph (3), the Secretary—

(A) determines that the facilities and equipment of the applicant under the application meet such requirements as the Secretary may prescribe;

(B) determines that—

(i) the application contains or is supported by satisfactory assurances that the comprehensive mental health services (in the case of an application for a grant under section 203 or 205) or the consultation and education services (in the case of an application for a grant under section 204) to be provided by the applicant will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) of, services that would otherwise be provided in the catchment area of the applicant;

(ii) the application contains or is supported by satisfactory assurances that Federal funds made available under section 203, 204, or 205, as the case may be, will (I) be used to supplement and, to the extent practical, increase the level of



State, local, and other non-Federal funds, including third-party health insurance payments, that would in the absence of such Federal funds be made available for the applicant's comprehensive mental health services, and (II) in no event supplant such State, local, and other non-Federal funds;

(iii) in the case of an applicant which received a grant from appropriations for the preceding fiscal year, during the year for which the grant was made the applicant met, in accordance with the section under which such grant was made, the requirements of section 201 and complied with the assurances which were contained in or supported the applicant's application for such grant; and

(iv) in the case of an application for a grant the amount of which is or may be determined under section 203(c)(2)(B) or 204(b)(3)(B) or under a provision of a repealed section of this title referred to in section 203(e) which authorizes an increase in the ceiling on the amount of a grant to support services to persons in areas designated by the Secretary as urban or rural poverty areas, the application contains or is supported by assurances satisfactory to the Secretary that the services of the applicant will, to the extent feasible, be used by a significant number of persons residing in an area designated by the Secretary as an urban or rural poverty area and requiring such services.

(3) In the case of an application—

(A) for the first grant under section 203(a) for an entity described in section 203(a)(1)(B), or

(B) for the first grant the authority for which is provided by section 203(e),

the Secretary may approve such application without regard to the assurances required by the second sentence of paragraph (1) of this subsection and without regard to the determinations required of the Secretary under paragraph (2) of this subsection if the application contains or is supported by assurances satisfactory to the Secretary that the applicant will undertake, during the period for which such first grant is to be made, such actions as may be necessary to enable the applicant, upon the expiration of such period, to make each of the assurances required by paragraph (1) and to enable the Secretary, upon the expiration of such period, to make each of the determinations required by paragraph (2).

(4) In each fiscal year for which a community mental health center receives a grant under section 203, 204, or

205, such center shall obligate for a program of continuing evaluation of the effectiveness of its programs in serving the needs of the residents of its catchment area and for a review of the quality of the services provided by the center not less than an amount equal to 2 per centum of the amount obligated by the center in the preceding fiscal year for its operating expenses.

(5) The costs for which grants may be made under section 203(a), 204, or 205 shall be determined in the manner prescribed in regulations of the Secretary issued after consultation with the National Advisory Mental Health Council.

(6) If the Secretary determines under section 203, 204, or 205 that an applicant for a grant under such section—

(A) has not made reasonable efforts to secure payments or reimbursements in accordance with assurances provided under subparagraph (I), (J), or (K) of subsection (c) (1), or

(B) is capable of increasing the amount of payments or reimbursements described in any such subparagraph,

the Secretary shall, in the case of a determination described in subparagraph (A), inform the applicant of the respects in which the applicant has not made such reasonable efforts and the manner in which the applicant's performance can be improved and, in the case of a determination described in subparagraph (B), inform the applicant of the manner in which the applicant can increase the amount of such payments. The Secretary shall give to an applicant a reasonable opportunity to respond, before the amount of the grant the applicant is applying for is determined, to a determination described in the preceding sentence. A determination of the Secretary referred to in the first sentence shall be referred to the National Advisory Mental Health Council for its review and recommendation.

(d) An application for a grant under this part which is submitted to the Secretary shall at the same time be submitted to the State mental health authority for the State in which the project or community mental health center for which the application is submitted is located. A State mental health authority which receives such an application under this subsection may review it and submit its comments to the Secretary within the forty-five-day period beginning on the date the application was received by it. The Secretary shall take action to require an applicant to revise his application or to approve or disapprove an application within the period beginning on the date the State mental health authority submits its comments or on the expiration of such forty-five-day period, whichever occurs first, and ending on the one

hundred and twentieth day following the date the application was submitted to him.

(e) Not more than 2 per centum of the total amount appropriated under sections 203, 204, and 205 for any fiscal year shall be used by the Secretary to provide directly through the Department technical assistance for program management and for training in program management to community mental health centers which received grants under such sections or to entities which received grants under section 220 of this title in a fiscal year beginning before the date of the enactment of the Community Mental Health Centers Amendments of 1975.

(f) For purposes of subsections (b), (c), (d), and (e) of this section, the term "community mental health center" includes an entity which applies for or has received a grant under section 203 or 204(a) (2).

## PART B—FINANCIAL DISTRESS GRANTS

### GRANT AUTHORITY

SEC. 211. The Secretary may make grants for the operation of any community mental health center which— 42 U.S.C. 2689f

(1) (A) received a grant under section 220 of this title (as in effect before the date of enactment of the Community Mental Health Centers Amendments of 1975) and, because of limitations in such section 220 respecting the period for which the center may receive grants under such section 220, is not eligible for further grants under that section for a fiscal year beginning after June 30, 1975; or

(B) received a grant or grants under section 203(a) of this title and, because of limitations respecting the period for which grants under such section may be made, is not eligible for further grants under that section; and

(2) demonstrates that without a grant under this section there will be a significant reduction in the types or quality of services provided or there will be an inability to provide the services described in section 201(b).

### GRANT REQUIREMENTS

SEC. 212. (a) No grant may be made under section 211 to any community mental health center in any State unless a State plan for the provision of comprehensive mental health services within such State has been submitted to, and approved by, the Secretary under section 237. Any grant under section 211 may be made upon 42 U.S.C. 2689



such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the community mental health center agree (1) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that center's financial distress, (2) to conduct a comprehensive cost analysis study in cooperation with the Secretary, (3) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of the comprehensive cost analysis study or on the basis of other relevant information, and (4) to use a grant received under section 211 to enable it to provide (within such period as the Secretary may prescribe) the comprehensive mental health services described in section 201(b) and to revise its organization to meet the requirements of sections 201(c) and 201(d).

(b) An application for a grant under section 211 must contain or be supported by the assurances prescribed by subparagraphs (A), (B), (C), (D), (E), (F), (G), (I), (J), (K), and (L) of section 206(c)(1) and assurances satisfactory to the Secretary that the applicant will expend for its operation as a community mental health center, during the year for which such grant is sought, an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average annual amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the three years immediately preceding the year for which such grant is sought. The Secretary may not approve such an application unless it has been recommended for approval by the National Advisory Mental Health Council. The requirements of section 206(d) respecting opportunity for review of applications by State mental health authorities and time limitations on actions by the Secretary on applications shall apply with respect to applications submitted for grants under section 211.

(c) Each grant under this section to a grantee shall be made for the projected costs of operation (except the costs of providing the consultation and education services described in section 201(b)(1)(D)) of such grantee for the one-year period beginning on the first day of the first month in which such grant is made. No community mental health center may receive more than three grants under section 211.

(d) The amount of a grant for a community mental health center under section 211 for any year shall be the lesser of the amounts computed under paragraph (1) or (2) as follows:

(1) An amount equal to the amount by which the center's projected costs of operation for that year ex-

ceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the center may reasonably be expected to collect in that year.

(2) An amount equal to the product of—

(A) 90 per centum of the percentage of costs—

(i) which was the ceiling on the grant last made to the center in the first series of grants it received under section 220 of this title (as in effect before the date of the enactment of the Community Mental Health Centers Amendments of 1975), or

(ii) prescribed by subsection (c)(2) of section 203 for computation of the last grant to the center under such section,

whichever grant was made last, and

(B) the center's projected costs of operation in the year for which the grant is to be made under section 211.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 213. There are authorized to be appropriated \$15,- 42 U.S.C. 2639h  
000,000 for fiscal year 1976, \$15,000,000 for the fiscal year ending September 30, 1977, and \$13,500,000 for the fiscal year ending September 30, 1978, for payments under grants under section 211.

#### PART C—FACILITIES ASSISTANCE

##### ASSISTANCE AUTHORITY

SEC. 221. (a) From allotments made under section 227 42 U.S.C. 2639i  
the Secretary shall pay, in accordance with this part, the Federal share of projects for (1) the acquisition or remodeling, or both, of facilities for community mental health centers, (2) the leasing (for not more than twenty-five years) of facilities for such centers, (3) the construction of new facilities or expansion of existing facilities for community mental health centers if not less than 25 per centum of the residents of the centers' catchment areas are members of low-income groups (as determined under regulations prescribed by the Secretary), and (4) the initial equipment of a facility acquired, remodeled, leased, constructed, or expanded with financial assistance provided under payments under this part. Payments shall not be made for the construction of a new facility or the expansion of an existing one unless the Secretary determines that it is not feasible for the recipient to acquire or remodel an existing facility.

(b)(1) For purposes of this part, the term "Federal share" with respect to any project described in subsection (a) means the portion of the cost of such project to be paid by the Federal Government under this part.

(2) The Federal share with respect to any project described in subsection (a) in a State shall be the amount determined by the State agency of the State, but, except as provided in paragraph (3), the Federal share for any such project may not exceed  $66\frac{2}{3}$  per centum of the costs of such project or the State's Federal percentage, whichever is the lower. Prior to the approval of the first such project in a State during any fiscal year, the State agency shall give the Secretary written notification of (A) the maximum Federal share, established pursuant to this paragraph, for such projects in such State which the Secretary approves during such fiscal year, and (B) the method for determining the specific Federal share to be paid with respect to any such project; and such maximum Federal share and such method of Federal share determination for such projects in such State during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

(3) In the case of any community mental health center which provides or will, upon completion of the project for which application has been made under this part, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under paragraph (2) may not exceed 90 per centum of the costs of the project.

(4) (A) For purposes of paragraph (2), the Federal percentage for (i) Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be  $66\frac{2}{3}$  per centum, and (ii) any other State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the average per capita income of all such other States.

(B) The Federal percentages under clause (ii) of subparagraph (A) shall be promulgated by the Secretary, between January 1 and March 31 of each even-numbered year, on the basis of the average of the per capita incomes of each of the States subject to such Federal percentages and of all the States subject to such percentages for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

#### APPROVAL OF PROJECTS

42 U.S.C. 2689j

SEC. 222. (a) For each project for a community mental health center facility pursuant to a State plan approved under section 237, there shall be submitted to the Secretary, through the State agency of the State, an application by the State or a political subdivision thereof or by a public or other nonprofit agency. If two or more such



agencies join in the project, the application may be filed by one or more of such agencies. Such application shall set forth—

- (1) a description of the site for such project;
- (2) plans and specifications therefor in accordance with the regulations prescribed by the Secretary under section 236;

- (3) except in the case of a leasing project, reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or nonprofit private agency which is to operate the community mental health center;

- (4) reasonable assurance that adequate financial support will be available for the project and for its maintenance and operation when completed;

- (5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a construction or remodeling project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

- (6) a certification by the State agency of the Federal share for the project; and

- (7) the assurances described in section 206(c)

Each applicant shall be afforded an opportunity for a hearing before the State agency respecting its application. For purposes of paragraph (3), the term "title" means a fee simple or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of acquisition, remodeling, construction, or expansion of a facility and its operation.

(b) The Secretary shall approve an application submitted in accordance with subsection (a) if—

- (1) sufficient funds to pay the Federal share for the project for which the application was submitted are available from the allotment to the State;

- (2) the Secretary finds that the application meets the applicable requirements of subsection (a) and the community mental health center for which the

application was submitted will meet the requirements of the State plan (under section 237) of the State in which the project is located; and

(3) the Secretary finds that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State, as determined under the State plan.

No application shall be disapproved by the Secretary until he has afforded the State agency an opportunity for a hearing. The Secretary may not approve an application under this part for a project for a facility for community mental health center or other entity which received a grant under section 220, 242, 243, 251, 256, 264, or 271 of this title (as in effect before the date of the enactment of the Community Mental Health Centers Amendments of 1975 (from appropriations for a fiscal year ending before July 1, 1975, unless the Secretary determines that the application is for a project for a center or entity which upon completion of such project will be able to significantly expand its services and which demonstrates exceptional financial need for assistance under this part for such project. Amendment of any approved application shall be subject to approval in the same manner as an original application.

#### PAYMENTS

42 U.S.C. 2689k

SEC. 223. (a) (1) Upon certification to the Secretary by the State agency, based upon inspection by it, that work has been performed upon a remodeling, construction, or expansion project, or purchases for such a project have been made, in accordance with the approved plans and specifications, and that payment of an installment is due to the applicant, such installment shall be paid to the State, from the applicable allotment of such State, except that (1) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (2) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to subsection (c) of this section, payment may, after he has given the State agency notice of opportunity for hearing pursuant to such section, be withheld in whole or in part, pending corrective action or action based on such hearing, and (3) the total payments with respect to such project may not exceed an amount equal to the Federal share of the cost of such project.

(2) If an amendment to an approved application is approved or the estimated cost of a remodeling, construction, or expansion project is revised upward, any additional payment with respect thereto may be made from

the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

(b) Payments from a State allotment for acquisition and leasing projects shall be made in accordance with regulations which the Secretary shall promulgate.

(c) (1) If the Secretary finds that—

(A) a State agency is not substantially complying with the provisions required by section 237 to be in a State plan or with regulations issued under section 236;

(B) any assurance required to be in an application filed under section 222 is not being carried out;

(C) there is substantial failure to carry out plans and specifications approved by the Secretary under section 222; or

(D) adequate State funds are not being provided annually for the direct administration of a State plan approved under section 237.

the Secretary may take the action authorized under paragraph (2) of this subsection if the finding was made after reasonable notice and opportunity for hearing to the involved State agency.

(2) If the Secretary makes a finding described in paragraph (1), he may notify the involved State agency, which is the subject of the finding or which is connected with a project or State plan which is the subject of the finding, that—

(A) no further payments will be made to the State from allotments under section 227; or

(B) no further payments will be made from allotments under section 227 for any project or projects designated by the Secretary as being affected by the action or inaction referred to in subparagraph (A), (B), (C), or (D) of paragraph (1),

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments from such allotments may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate State funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

#### JUDICIAL REVIEW

SEC. 224. If—

42 U.S.C. 26891

(1) the Secretary refuses to approve an application for a project submitted under section 222, the State agency through which such application was submitted, or



(2) any State is dissatisfied with the Secretary's action under section 223(c) or 237(c), such State, may appeal to the United States court of appeals for the circuit in which such State agency or State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but, until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of facts and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

#### RECOVERY

42 U.S.C. 2689m

SEC. 225. If any facility of a community mental health center acquired, remodeled, constructed, or expanded with funds provided under this part is, at any time within twenty years after the completion of such remodeling, construction, or expansion or after the date of its acquisition with such funds—

(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 222, or (B) which is not approved as a transferee by the State agency of the State in which such facility is located, or its successor; or

(2) not used by a community mental health center in the provision of comprehensive mental health services, and the Secretary has not determined that there is good cause for termination of such use, the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or

transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the United States district court for the district in which the center is situated) of so much of such facility or center as constituted an approved project or projects, as the amount of the Federal participation bore to the acquisition, remodeling, construction, or expansion cost of such project or projects. Such right of recovery shall not constitute a lien upon such facility or center prior to judgment.

#### NONDUPLICATION

SEC. 226. No grant may be made under the Public Health Service Act for the remodeling, construction, or expansion of a facility for a community mental health center unless the Secretary determines that there are no funds available under this part for the remodeling, construction, or expansion of such facility.

42 U.S.C. 2689n

#### ALLOTMENTS TO STATES

SEC. 227. (a) In each fiscal year, the Secretary shall, in accordance with regulations, make allotments, from the sums appropriated under section 228, to the States (with State plans approved under section 237) on the basis of (1) the population, (2) the extent of the need for community mental health centers, and (3) the financial need, of the respective States; except that no such allotment to any State, other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, in any fiscal year may be less than \$100,000. Sums so allotted to a State other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, in a fiscal year and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted for such State in such next fiscal year. Sums so allotted to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands in a fiscal year and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next two fiscal years (and in such years only), in addition to the sums allotted to such State for such purpose in each of such next two fiscal years.

42 U.S.C. 2689o

(b) The amount of an allotment under subsection (a) to a State in a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallocation by the Secretary from

time to time, on such date or dates as he may fix, to other States with respect to which a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State in a fiscal year shall be deemed to be a part of its allotment under subsection (a) in such fiscal year.

#### AUTHORIZATION OF APPROPRIATIONS

42 U.S.C. 2689p

SEC. 228. There are authorized to be appropriated \$5,000,000 for fiscal year 1976, \$5,000,000 for fiscal year 1977, and \$2,500,000 for the fiscal year ending September 30, 1978, for allotments under section 227.

#### PART D—RAPE PREVENTION AND CONTROL

42 U.S.C. 2689q

#### RAPE PREVENTION AND CONTROL

SEC. 231. (a) The Secretary shall establish within the National Institute of Mental Health an identifiable administrative unit to be known as the National Center for the Prevention and Control of Rape (hereinafter in this section referred to as the "Center").

(b) (1) The Secretary, acting through the Center, may, directly or by grant, carry out the following:

(A) A continuing study of rape, including a study and investigation of—

(i) the effectiveness of existing Federal, State, and local laws dealing with rape;

(ii) the relationship, if any, between traditional legal and social attitudes toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

(iii) the treatment of the victims of rape by law enforcement agencies, hospitals or other medical institutions, prosecutors, and the courts;

(iv) the causes of rape, identifying to the degree possible—

(I) social conditions which encourage sexual attacks, and

(II) the motives of offenders, and

(v) the impact of rape on the victim and the family of the victim;

(vi) sexual assaults in correctional institutions;



(vii) the actual incidence of forcible rape as compared to the reported incidence of forcible rape and the reasons for any difference in such incidences; and

(viii) the effectiveness of existing private and local and State government educational, counseling, and other programs designed to prevent and control rape.

(B) The compilation, analysis, and publication of summaries of the continuing study conducted under subparagraph (A) and the research and demonstration projects conducted under subparagraph (E). The Secretary shall annually submit to the Congress a summary of such study and projects together with recommendations where appropriate.

(C) The development and maintenance of an information clearinghouse with regard to—

(i) the prevention and control of rape;

(ii) the treatment and counseling of the victims of rape and their families; and

(iii) the rehabilitation of offenders.

(D) The compilation and publication of training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape.

(E) Assistance to community mental health centers and other qualified public and nonprofit private entities in conducting research and demonstration projects concerning the prevention and control of rape, including projects (i) for the planning, developing, implementing, and evaluating of alternative methods used in the prevention and control of rape, the treatment and counseling of the victims of rape and their families, and the rehabilitation of offenders; (ii) for the application of such alternative methods; and (iii) for the promotion of community awareness of the specific locations in which, and the specific social and other conditions under which, sexual attacks are most likely to occur.

(F) Assistance to community mental health centers in meeting the costs of providing consultation and education services respecting rape.

(2) For purposes of this subsection, the term "rape" includes statutory and attempted rape and any other criminal sexual assault (whether homosexual or heterosexual) which involves force or the threat of force.

(c) The Secretary shall appoint an advisory committee to advise, consult with, and make recommendations to him on the implementation of subsection (b). The Secretary shall appoint to such committee persons who are particularly qualified to assist in carrying out the

functions of the committee. A majority of the members of the committee shall be women. Members of the advisory committee shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, for each day (including traveltime) they are engaged in the performance of their duties as members of the advisory committee and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(d) For the purpose of carrying out subsection (b), there are authorized to be appropriated \$7,000,000 for fiscal year 1976, \$10,000,000 for the fiscal year ending September 30, 1977, and \$7,880,000 for the fiscal year ending September 30, 1978.

## PART E—GENERAL PROVISIONS

### DEFINITIONS

42 U.S.C. 2689r

SEC. 235. For purposes of this title—

(1) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(2) The term "State agency" means the State mental health authority for which grants are authorized under section 314(d) of the Public Health Service Act.

(3) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(4) The term "National Advisory Mental Health Council" means the National Advisory Mental Health Council established under section 217 of the Public Health Service Act.

### REGULATIONS

42 U.S.C. 2689s

SEC. 236. Regulations issued by the Secretary for the administration of this title shall include provisions applicable uniformly to all the States which—

(1) prescribe the general manner in which the State agency of a State shall determine the priority of projects for community mental health centers on the basis of the relative need of the different areas of the State for such centers and their services and require special consideration for projects on the basis of the extent to which a center to be assisted or established upon completion of a project (A) will, alone or in conjunction with other centers owned or operated by the applicant for the project or affiliated

or associated with such applicant, provide comprehensive mental health services for residents of a particular community or communities, or (B) will be part of or closely associated with a general hospital;

(2) prescribe general standards for facilities and equipment for centers of different classes and in different types of location; and

(3) require that the State plan of a State submitted under section 237 provide for adequate community mental health centers for people residing in the State, and provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor.

The National Advisory Mental Health Council shall be consulted by the Secretary before the issuance of regulations under this section.

#### STATE PLAN

SEC. 237. (a) A State plan for the provision of comprehensive mental health services within a State shall be comprised of the following two parts:

42 U.S.C. 2689t

(1) An administrative part containing provisions respecting the administration of the plan and related matters. Such part shall—

(A) provide for the designation of a State advisory council to consult with the State agency in administering such plan, which council shall include (i) representatives of nongovernment organizations or groups, and of State agencies, concerned with the planning, operation, or use of community mental health centers or other mental health facilities, and (ii) representatives of consumers and providers of the services of such centers and facilities who are familiar with the need for such services;

(B) provide that the State agency will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) provide that the State agency will from time to time, but not less often than annually, review the State plan and submit to the Secretary appropriate modifications thereof which it considers necessary; and

(D) include provisions, meeting such requirements as the Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis.



(2) A services and facilities part containing provisions respecting services to be offered within the State by community mental health centers and provisions respecting facilities for such centers. Such part shall—

(A) be consistent with the provisions of the State plan prepared in accordance with section 1524(c) (2) of the Public Health Service Act or the State plan approved under section 314(a) of such Act, whichever is applicable, relating to the provision of mental health services;

(B) set forth a program for community mental health centers within the State (i) which is based on a statewide inventory of existing facilities and a survey of need for the comprehensive mental health services described in section 201(b); (ii) which conforms with regulations prescribed by the Secretary under section 236; and (iii) which shall provide for adequate community mental health centers to furnish needed services for persons unable to pay therefor;

(C) set forth the relative need, determined in accordance with the regulations prescribed under section 236, for the projects included in program described in subparagraph (B), and, in the case of projects under part C, provide for the completion of such projects in the order of such relative need;

(D) emphasize the provision of outpatient services by community mental health centers as a preferable alternative to inpatient hospital services; and

(E) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of centers which receive Federal aid under this title and provide for enforcement of such standards with respect to projects approved by the Secretary under this title.

(b) The State agency shall administer or supervise the administration of the State plan.

(c) A State shall submit a State plan in such form and manner as the Secretary shall by regulation prescribe. The Secretary shall approve any State plan (and any modification thereof) which complies with the requirements of subsection (a). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d) (1) At the request of any State, a portion of any allotment or allotments of such State under section 227

for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the provisions of the State plan approved under this section which relate to projects under part C for facilities for community mental health centers; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or \$50,000, whichever is less, shall be available for such purpose. Amounts made available to any State under this paragraph from its allotment or allotments under section 227 for any fiscal year shall be available only for such expenditures (referred to in the preceding sentence) during such fiscal year or the following fiscal year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

(2) Any amount paid under paragraph (1) to any State for any fiscal year for administration of the provisions of an approved State plan shall be paid on condition that there shall be expended from State sources for each year for administration of such provisions not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1968.

#### CATCHMENT AREA REVIEW

SEC. 238. Each State health planning and development agency designated for a State under section 1521 of the Public Health Service Act shall, in consultation with that State's mental health authority, periodically review the catchment areas of the community mental health centers located in that State to (1) insure that the sizes of such areas are such that the services to be provided through the centers (including their satellites) serving the areas are available and accessible to the residents of the areas promptly, as appropriate, (2) insure that the boundaries of such areas conform, to the extent practicable, with relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs, and (3) insure that the boundaries of such areas eliminate, to the extent possible, barriers to access to the services of the centers serving the areas, including barriers resulting from an area's physical characteristics, its residential patterns, its economic and social groupings, and available transportation. 42 U.S.C. 2689u

#### STATE CONTROL OF OPERATIONS

SEC. 239. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on 42 U.S.C. 2689v

any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any community mental health center with respect to which any funds have been or may be expended under this title.

#### RECORDS AND AUDIT

42 U.S.C. 2689w

SEC. 240. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under this title.

#### NONDUPLICATION

42 U.S.C. 2689x

SEC. 241. In determining the amount of any grant under part A, B, or C for the costs of any project there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant for such grant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

#### DETERMINATION OF POVERTY AREA

42 U.S.C. 2689y

SEC. 242. For purposes of any determination by the Secretary under this title as to whether any urban or rural area is a poverty area, the Secretary may not determine that an area is an urban or rural poverty area unless—

(1) such area contains one or more subareas which are characterized as subareas of poverty;

(2) the population of such subarea or subareas constitutes a substantial portion of the population of such rural or urban area; and

(3) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into operation) will, serve the needs of the residents of such subarea or subareas



## PROTECTION OF PERSONAL RIGHTS

SEC. 243. In making grants under parts A and B, the Secretary shall take such steps as may be necessary to assure that no individual shall be made the subject of any research involving surgery which is carried out (in whole or in part) with funds under such grants unless such individual explicitly agrees to become a subject of such research. 42 U.S.C. 2689z

## REIMBURSEMENT

SEC. 244. The Secretary shall, to the extent permitted by law, work with States, private insurers, community mental health centers, and other appropriate entities to assure that community mental health centers shall be eligible for reimbursement for their mental health services to the same extent as general hospitals and other licensed providers. 42 U.S.C. 2689aa

## SHORT TITLE

SEC. 245. This title may be cited as the "Community Mental Health Centers Act". 42 U.S.C. 2689 note

TITLE III—TRAINING OF TEACHERS OF MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN <sup>1</sup>

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<sup>1</sup>Title III repealed effective July 1, 1971, by sec. 662, P.L. 91-230 and superseded by Title VI of the same Act.

(582)

## TITLE IV—GENERAL<sup>1</sup>

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<sup>1</sup> Title IV repealed effective June 30, 1975, by sec. 302(c), P.L. 94-103.

(583)



TITLE V—TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR MENTALLY RETARDED AND OTHER HANDICAPPED CHILDREN <sup>1</sup>

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<sup>1</sup> Title V repealed effective July 1, 1971, by sec. 662, P.L. 91-230 and superseded by Title VI of the same Act.

(584)

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COMPREHENSIVE ALCOHOL ABUSE AND AL-  
COHOLISM PREVENTION, TREATMENT,  
AND REHABILITATION ACT OF 1970

[P.L. 91-616; Dec. 31, 1970]

(EXCERPTS)

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AN ACT To provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism.<sup>1</sup>

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970".

#### FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

42 U.S.C. 4541

(1) alcohol is one of the most dangerous drugs and the drug most frequently abused in the United States;

(2) of the Nation's estimated ninety-five million drinkers, at least nine million, or 7 per centum of the adult population, are alcohol abusers and alcoholics;

(3) problem drinking costs the national economy at least \$15,000,000,000 annually in lost working time, medical and public assistance expenditures, and police and court costs;

(4) alcohol abuse is found with increasing frequency among persons who are multiple-drug abusers and among former heroin users who are being treated in methadone maintenance programs;

(5) alcohol abuse is being discovered among growing numbers of youth; and

(6) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services, and with the cooperation of law enforcement agencies.

(b) It is the policy of the United States and the purpose of this Act to approach alcohol abuse and alcoholism from a comprehensive community care standpoint, and to meet the problems of alcohol abuse and alcoholism through—

42 U.S.C. 4541  
note

42 U.S.C. 4541

(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States, and direct Federal assistance to community-based programs to meet the urgent needs

<sup>1</sup> Portions of this Act which amend the PHS Act are incorporated in the appropriate sections of the Act, and portions which amend the Community Mental Health Centers Act are incorporated in the appropriate sections of that Act.

or special populations, in coordination with all other governmental and nongovernmental sources of assistance;

(2) the development of methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs; and

(3) increased Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental and physical health and social and economic consequences of, alcohol abuse and alcoholism.

# TITLE I—NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

## ESTABLISHMENT OF THE INSTITUTE

SEC. 101. (a) There is established the National Institute on Alcohol Abuse and Alcoholism (hereafter in this Act referred to as the "Institute") to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary") by this Act and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 301 and 303 of the Public Health Service Act with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

42 U.S.C. 4551

(b) (1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs to be carried out through the Institute.

(c) The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

## REPORTS BY THE SECRETARY

SEC. 102. The Secretary shall—

42 U.S.C. 4552

(1) submit an annual report to Congress which shall include a description of the actions taken, services provided, and funds expended under this Act and part C of the Community Mental Health Centers Act, an evaluation of the effectiveness of such actions, services, and expenditures of funds, and such other information as the Secretary considers appropriate;



(2) submit to Congress on or before the expiration of the one-year period beginning on the date of enactment of this Act and every three years thereafter a report (A) containing current information on the health consequences of using alcoholic beverages, and (B) containing such recommendations for legislation and administrative action as he may deem appropriate;

(3) submit such additional reports as may be requested by the President of the United States or by Congress;

(4) Submit to the President of the United States and to Congress such recommendations as will further the prevention, treatment, and control of alcohol abuse and alcoholism; and

(5) submit to Congress on or before the end of each calendar year a report on the extent to which other Federal programs and departments are concerned and dealing effectively with the problems of alcohol abuse and alcoholism.

Before submitting a report under paragraph (5), the Secretary shall give each department and agency of the Government which (or a program of which) is referred to in the report he proposes to submit under such paragraph an opportunity to comment on the proposed report; and the Secretary shall include in the report submitted to Congress under such paragraph the comments received by him from any such department or agency within 30 days from the date the proposed report was submitted to such department or agency.

#### INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM

42 U.S.C. 4553

SEC. 103. (a) The Secretary shall establish an Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (hereinafter in this section referred to as the "Committee"). The Committee shall (1) evaluate the adequacy and technical soundness of all Federal programs and activities which relate to alcoholism and alcohol abuse and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seek to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

(b) The Secretary or the Director of the National Institute on Alcohol Abuse and Alcoholism (or the Director's designee) shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the

Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) as the Secretary determines administer programs directly affecting alcoholism and alcohol abuse, and (2) five individuals from the general public appointed by the Secretary from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

(c) Each appointed member of the Committee shall be appointed for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

(d) Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(e) The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities effectively.

## TITLE II—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS FOR FEDERAL CIVILIAN EMPLOYEES

### ALCOHOL ABUSE AND ALCOHOLISM AMONG FEDERAL CIVILIAN EMPLOYEES

42 U.S.C. 4561

SEC. 201. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for alcohol abuse and alcoholism among Federal civilian employees, consistent with the purposes of this Act. Such policies and services shall make optimal use of existing governmental facilities, services, and skills.

(b) The Secretary, acting through the Institute, shall be responsible for fostering similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

(c) (1) No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior alcohol abuse or prior alcoholism.

(2) This subsection shall not apply to employment (A) in the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, or any other department or agency of the Federal Government designated for purposes of national security by the President, or (B) in any position in any department or agency of the Federal Government, not referred to in clause (A), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

(d) This title shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

(e) The Secretary of Health, Education, and Welfare, acting through the Administration, shall evaluate and make recommendations regarding improved, coordinated activities, where appropriate, for public education and other prevention programs with respect to the abuse of alcohol and other substances.



## TITLE III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

### PART A—GRANTS TO STATES

#### AUTHORIZATION FOR FORMULA GRANTS

SEC. 301. There are authorized to be appropriated 42 U.S.C. 4571  
\$40,000,000 for the fiscal year ending June 30, 1971, \$60,-  
000,000 for the fiscal year ending June 30, 1972, \$80,000,-  
000 for each of the next two fiscal years, \$80,000,000 for  
the fiscal year ending June 30, 1975, \$80,000,000 for  
the fiscal year ending June 30, 1976, \$70,000,000 for the  
fiscal year ending September 30, 1977, \$77,000,000 for the  
fiscal year ending September 30, 1978, and \$85,000,000  
for the fiscal year ending September 30, 1979, for grants  
to States to assist them in planning, establishing, main-  
taining, coordinating, and evaluating projects for the  
development of more effective prevention, treatment,  
and rehabilitation programs to deal with alcohol abuse  
and alcoholism. For purposes of this part, the term  
“State” includes the District of Columbia, the Virgin  
Islands, the Commonwealth of Puerto Rico, Guam,  
American Samoa, and the Trust Territory of the Pacific  
Islands, in addition to the fifty States.

#### STATE ALLOTMENT

SEC. 302. (a) (1) For each fiscal year the Secretary shall, 42 U.S.C. 4572  
in accordance with regulations, allot the sums appropri-  
ated for such year pursuant to section 301 among the  
States on the basis of the relative population, financial  
need, and need for more effective prevention, treatment,  
and rehabilitation of alcohol abuse and alcoholism; ex-  
cept that no such allotment to any State (other than the  
Virgin Islands, American Samoa, Guam, and the Trust  
Territory of the Pacific Islands) for any fiscal year shall,  
except as provided in paragraph (2), be less than the  
greater of (A) \$200,000, or (B) the amount of such  
State's allotment for the fiscal year ending June 30, 1976,  
unless the amount appropriated under section 301 for  
allotments for the fiscal year ending June 30, 1976, was  
greater than the amount appropriated for the fiscal year  
for which the minimum allotment determination is being  
made, in which case the minimum allotment prescribed  
by this clause shall be an amount which bears the same  
ratio to the amount allotted for the fiscal year ending  
June 30, 1976, as the amount appropriated for the fiscal

year for which the minimum allotment determination is being made bears to the amount appropriated for the fiscal year ending June 30, 1976. In determining the extent of a State's need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism, the Secretary shall (within 180 days after the date of enactment of this sentence) by regulation establish a methodology to assess and determine the incidence and prevalence of alcohol abuse within the States.

(2) If the amount appropriated under section 301 for any fiscal year is less than the amount required to make for such fiscal year the minimum allotment prescribed by paragraph (1) to each State with an approved State plan, the minimum allotment for such fiscal year for a State with an approved State plan shall be an amount which bears the same ratio to the minimum allotment prescribed by paragraph (1) for such State as the amount appropriated under section 301 for such fiscal year bears to the amount of appropriations required to make the minimum allotment, as so prescribed, to each State with an approved State plan.

(b) Any amount allotted to a State in a fiscal year (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallocated by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallocated to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands in a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallocated by the Secretary, to be available for the purposes for which

made until the close of the second of such next two years, to any other of such four States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallocated to a State shall be in addition to the amounts allotted and available to the State for the same period.

(c) At the request of any State, a portion of any allotment or allotments of such State under this part shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this part, except that not more than 10 per centum of the total of the allotments of such State for a year, or \$50,000, whichever is the least, shall be available for such purpose for such year.

(d) On the request of any State, the Secretary is authorized to arrange for the assignment of officers and employees of the Department or provide equipment or supplies in lieu of a portion of the allotment of such State. The allotment may be reduced by the fair market value of any equipment or supplies furnished to such State and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the State. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall for purposes of determining the allotment under section 302(a), be deemed to have been paid to the State.

#### STATE PLANS

SEC. 303. (a) Any State desiring to participate in this part shall submit a State plan for carrying out its purposes. Such plan must— 42 U.S.C. 4573

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the "State agency") will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations, of groups to be served with attention to assuring representation of minority and poverty groups, and of public agencies concerned with the prevention and treatment of alcohol abuse and alcoholism, and at least one representative of the Statewide Health Coordinating Council established pursuant to section 1524 of the



Public Health Service Act, to consult with the State agency in carrying out the plan;

(4) (A) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of alcohol abuse and alcoholism, including a survey of the health facilities needed to provide services for alcohol abuse and alcoholism and a plan for the development and distribution of such facilities and programs throughout the State; (B) include in the survey conducted pursuant to subparagraph (A) an identification of the need for prevention and treatment of alcohol abuse and alcoholism by women and by individuals under the age of eighteen and provide assurance that prevention and treatment programs within the State will be designed to meet such need;

(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6):

(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

(9) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event supplant such State, local, and other non-Federal funds;

(10) set forth, in accordance with criteria to be set by the Secretary, standards (including enforcement procedures and penalties) for (A) construction and licensing of public and private treatment facilities,

and (B) for other community services or resources available to assist individuals to meet problems resulting from alcohol abuse;

(11) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of alcohol abuse and alcoholism treatment, prevention, and rehabilitation, including but not limited to programs funded under State and local laws, occupational programs, voluntary organizations, education programs, military and Veterans' Administration resources, and available public and private third-party payment plans;

(12) provide assurance that the State agency will coordinate its planning with local alcoholism and alcohol abuse planning agencies and with other State and local health planning agencies;

(13) provide assurance that State certification, accreditation, or licensure requirements, if any, applicable to alcohol abuse and alcoholism treatment facilities and personnel take into account the special nature of such programs and personnel, including the need to encourage the development of nonmedical modes of treatment and the need to acknowledge previous experience when assessing the adequacy of treatment personnel;

(14) provide reasonable assurance that prevention or treatment projects or programs supported by funds made available under section 302 have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such prevention or treatment programs or projects;

(15) provide that the State agency will review admissions to hospitals and outpatient facilities to assist the Secretary in determining the compliance of such hospitals and facilities with the requirement of section 321 and shall make periodic reports to the Secretary respecting such review; and

(16) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this part.

Each State plan shall pertain to the twelve-month period of the State fiscal year which commences in the calendar year in which the plan is submitted and shall be submitted not later than July 31 of each calendar year.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a). A State plan submitted under subsection (a) may also contain provisions relating to drug abuse or mental health. The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, shall establish procedures by which the In-

stitute shall review each State plan submitted under subsection (a) and under which it shall complete its review of each such plan not later than September 15 of the calendar year in which the plan is submitted or not later than sixty days after the plan is received by the Institute, whichever is later.

(c) The Secretary shall by regulation require, as a condition to the approval of the State plan, that the State for which such plan was submitted report to the Secretary (in such form and manner as the Secretary shall prescribe) an assessment of the progress of the State in the implementation of its State plan. After making an initial such report, a State shall make additional reports every third year thereafter in which it receives an allotment under this part. The reporting requirement shall first apply with respect to State plans submitted for allotments for fiscal years beginning after September 30, 1977.

#### PART B—PROJECT GRANTS AND CONTRACTS

##### SPECIAL GRANTS FOR IMPLEMENTATION OF THE UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

42 U.S.C. 4574

SEC. 310. (a) To assist States which have adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act (hereinafter in this section referred to as the "Uniform Act" to utilize fully the protections of the Uniform Act in their efforts to approach alcohol abuse and alcoholism from a community care standpoint, the Secretary, acting through the Institute, shall, during the period beginning July 1, 1974, and ending September 30, 1979, make grants to such States for the implementation of the Uniform Act. A grant under this section to any State may only be made for that State's costs (as determined in accordance with regulations which the Secretary shall promulgate not later than July 1, 1974) in implementing the Uniform Act for a period which does not exceed one year from the first day of the first month for which the grant is made. No State may receive more than six grants under this section.

(b) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve an application of a State under this section unless he determines the following:

(1) The State and each of its political subdivisions are committed to the concept of care for alcoholism and alcohol abuse through community health and social service agencies, and, in accordance with the purposes of sections 1 and 19 of the Uniform



Act, have repealed those portions of their criminal statutes and ordinances under which drunkenness is the gravamen of a petty criminal offense, such as loitering, vagrancy, or disturbing the peace.

(2) The laws of the State respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the following standards of acceptance of individuals for such treatment (contained in section 10 of the Uniform Act) :

(A) A patient shall, if possible, be treated on a voluntary rather than an involuntary basis.

(B) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(C) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(D) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(E) Provision shall be made for a continuum of coordinated treatment services so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

(3) The laws of the State respecting involuntary commitment of alcoholics are consistent with the provisions of section 14 of the Uniform Act which protect individual rights.

(4) The application of the State contains such assurances as the Secretary may require to carry out the purposes of this section.

(c) The amount of any grant under this section to any State for any fiscal year may not exceed the sum of \$150,000 and an amount equal to 20 percent of the allotment of such State for such fiscal year under section 302 of this Act. Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

#### GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

SEC. 311(a) The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals—

(1) to conduct demonstration and evaluation projects, including projects designed to develop methods for the effective coordination of all alcoholism treat-

ment, training, prevention, and research resources available within a health service area established under section 1511 of the Public Health Service Act,

(2) to provide treatment and prevention services, with special emphasis on currently underserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available,

(3) to provide education and training, which may include additional training to enable treatment personnel to meet certification requirements of public or private accreditation or licensure, or requirements of third-party payors, and

(4) to provide programs and services, including education and counseling services, in cooperation with law enforcement personnel, schools, courts, penal institutions, and other public agencies, for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

(b) Projects and programs for which grants and contracts are made under this section shall (1) whenever possible, be community based, seek to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; (2) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability, utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and identify an individual employed by the project or program, or who is available to the project or program on a full-time basis, who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English-speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and (3) where appropriate utilize existing community resources (including community mental health centers).

(c) (1) In administering this section, the Secretary shall require coordination of all applications for projects and programs in a State.

(2) (A) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under

section 303 of this Act, if such designation has been made. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project or program set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects and programs pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under section 303. The State shall furnish the applicant a copy of any such evaluation.

(B) (i) Except as provided in clause (ii), each application for a grant under this section shall be submitted by the Secretary to the National Advisory Council on Alcohol Abuse and Alcoholism for its review. The Secretary may approve an application for a grant under this section only if it is recommended for approval by such Council.

(ii) Clause (i) shall not apply to an application for a grant under this section for a project or program for any period of 12 consecutive months for which period payments under such grant will be less than \$250,000, if an application for a grant under this section for such project or program and for a period of time which includes such 12-month period has been submitted to, and approved by, the Secretary.

(3) Approval of any application for a grant or contract by the Secretary, including the earmarking or financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

(A) provides that the projects and programs for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

(B) provides for such methods of administration as are necessary for the proper and efficient operation of such programs and projects;

(C) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

(D) provides reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the projects and programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

(4) The Secretary shall give special consideration to applications under this section for programs and projects



for prevention and treatment of alcohol abuse and alcoholism by women and for programs and projects for prevention and treatment of alcohol abuse and alcoholism by individuals under the age of eighteen.

(5) Each applicant, upon filing its application with the Secretary for a grant or contract to provide prevention or treatment services, shall provide a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such services.

#### AUTHORIZATIONS OF APPROPRIATIONS

42 U.S.C. 4578      SEC. 312. For purposes of sections 310 and 311, there are authorized to be appropriated \$85,000,000 for the fiscal year ending September 30, 1977, \$91,000,000 for the fiscal year ending September 30, 1978, and \$102,500,000 for the fiscal year ending September 30, 1979.

#### PART C—ADMISSION TO HOSPITALS AND OUTPATIENT FACILITIES

##### ADMISSION OF ALCOHOL ABUSERS AND ALCOHOLICS TO PRIVATE AND PUBLIC HOSPITALS AND OUTPATIENT FACILITIES

42 U.S.C. 4581      SEC. 321. (a) Alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital, or outpatient facility (as defined in section 1633(6) of the Public Health Service Act) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

(b) (1) The Secretary shall issue regulations not later than December 31, 1976 for the enforcement of the policy of subsection (a) with respect to the admission and treatment of alcohol abusers and alcoholics in hospitals and outpatient facilities which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital or outpatient facility subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program

from which such hospital or outpatient facility receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital or outpatient facility.

(2) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) of this subsection to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcohol abuse or alcoholism. In prescribing and implementing regulations pursuant to this paragraph, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

#### CONFIDENTIALITY OF RECORDS

SEC. 333. (a) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

42 U.S.C. 4582

(b) (1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency,

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing

good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(e) The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense.

(g) Except as provided in subsection (h) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcohol abuse or alcoholism. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.



**TITLE IV—THE NATIONAL ADVISORY COUNCIL  
ON ALCOHOL ABUSE AND ALCOHOLISM**

**[Amends the Public Health Service Act and the Community Mental Health Centers Act.]**

(605)

## TITLE V—RESEARCH

### ENCOURAGEMENT OF RESEARCH

42 U.S.C. 4591

SEC. 501. (a) The Secretary, acting through the Institute, shall carry out a program of research, investigations, experiments, demonstrations, and studies, directly and by grant or contract, into—

- (1) the behavioral and biomedical etiology of,
  - (2) treatment of,
  - (3) mental and physical health consequences of,
  - and
  - (4) social and economic consequences of,
- alcohol abuse and alcoholism.

(b) In carrying out the program described in subsection (a) of this section, the Secretary, acting through the Institute, is authorized to—

(1) collect and make available through publications and other appropriate means, information as to, and the practical application of, the research and other activities under the program;

(2) make available research facilities of the Public Health Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(3) make grants to universities, hospitals, laboratories, and other public or nonprofit institutions, and to individuals for such research projects as are recommended by the National Advisory Council on Alcohol Abuse and Alcoholism;

(4) secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(5) promote the coordination of research programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals, including all National Institutes of Health research activities which are or may be related to the problems of individuals suffering from alcoholism or alcohol abuse;

(6) conduct an intramural program of biomedical and behavioral research, including research into the most effective means of treatment and service delivery, and including research involving human subjects, which is—

(A) located in an institution capable of providing all necessary medical care for such human

subjects, including complete 24-hour medical diagnostic services by or under the supervision of physicians, acute and intensive medical care, including 24-hour emergency care, psychiatric care, and such other care as is determined to be necessary for individuals suffering from alcoholism and alcohol abuse; and

(B) associated with an accredited medical or research training institution;

(7) for purposes of study, admit and treat at institutions, hospitals, and stations of the Public Health Service, persons not otherwise eligible for such treatment;

(8) provide to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

(9) enter into contracts under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5); and

(10) adopt, upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

#### SCIENTIFIC PEER REVIEW

SEC. 502. The Secretary, acting through the Institute, shall, by regulation, provide for review of all research grants and contracts, training, treatment, and prevention activity grants, and programs over which he has authority under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of alcoholism. 42 U.S.C. 4586

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 503. There are authorized to be appropriated for carrying out the purposes of section 501 and 502 \$20,000,000 for the fiscal year ending September 30, 1977, \$24,000,000 for the fiscal year ending September 30, 1978, and \$28,000,000 for the fiscal year ending September 30, 1979. 42 U.S.C. 4587

#### NATIONAL ALCOHOL RESEARCH CENTERS

SEC. 504. (a) The Secretary acting through the Institute may designate National Alcohol Research Centers for the purpose of interdisciplinary research relating to alcoholism and other alcohol problems. No entity may be designated as a Center unless an application therefor has been submitted to, and approved by, the Secretary. Such 42 U.S.C. 4588



an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless—

(1) the application contains or is supported by reasonable assurances that—

(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on alcoholism and other alcohol problems and to provide coordination of such research among such disciplines;

(B) the applicant has available to it sufficient laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature);

(C) the applicant has facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems;

(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on alcoholism and other alcohol problems; and

(E) the applicant has the capacity to conduct courses on alcohol problems and research on alcohol problems for undergraduate and graduate students, and for medical and osteopathic students and physicians;

(2) the application contains a detailed five-year plan for research relating to alcoholism and other alcohol problems.

(b) The Secretary shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No annual grant to any Center may exceed \$1,000,000. No funds provided under a grant under this subsection may be used for the purchase or rental of any land or the rental, purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term "construction" has the meaning given that term by section 702(2) of the Public Health Service Act (42 U.S.C. 292a).

(c) There are authorized to be appropriated to carry out the purposes of this section \$6,000,000 for the fiscal year ending September 30, 1977, and for each of the next two succeeding fiscal years.

## TITLE VI—GENERAL

SEC. 601. If any section, provision, or term of this Act is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this Act, and the remaining sections, provisions, and terms shall be and remain in full force and effect. 42 U.S.C. 4591

SEC. 602. (a) Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. 42 U.S.C. 4592

(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this Act under other than competitive bidding procedures.

SEC. 603. Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Secretary may determine. 42 U.S.C. 4593





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DRUG ABUSE OFFICE AND TREATMENT ACT OF 1972

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## § 1. Short title.

This Act may be cited as the "Drug Abuse Office and Treatment Act of 1972".

## TITLE I—FINDINGS AND DECLARATION OF POLICY; DEFINITIONS; TERMINATION

Sec.

- 101. Congressional findings.
- 102. Declaration of national policy.
- 103. Definitions.
- 104. Termination.

### § 101. Congressional findings.

21 U.S.C. 1101

The Congress makes the following findings:

(1) Drug abuse is rapidly increasing in the United States and now afflicts urban, suburban, and rural areas of the Nation.

(2) Drug abuse seriously impairs individual, as well as societal, health and well-being.

(3) Drug abuse, especially heroin addiction, substantially contributes to crime.

(4) The adverse impact of drug abuse inflicts increasing pain and hardship on individuals, families, and communities and undermines our institutions.

(5) Too little is known about drug abuse, especially the causes, and ways to treat and prevent drug abuse.

(6) The success of Federal drug abuse programs and activities requires a recognition that education, treatment, rehabilitation, research, training, and law enforcement efforts are interrelated.

(7) The effectiveness of efforts by State and local governments and by the Federal Government to control and treat drug abuse in the United States has been hampered by a lack of coordination among the States, between States and localities, among the Federal Government, States and localities, and throughout the Federal establishment.

(8) Control of drug abuse requires the development of a comprehensive, coordinated long-term Federal strategy that encompasses both effective law enforcement against illegal drug traffic and effective health programs to rehabilitate victims of drug abuse.

(9) The increasing rate of drug abuse constitutes a serious and continuing threat to national health and welfare, requiring an immediate and effective response on the part of the Federal Government.

(10) Although the Congress observed a significant apparent reduction in the rate of increase of drug abuse during the three-year period subsequent to the



date of enactment of this Act, and in certain areas of the country apparent temporary reductions in its incidence, the increase and spread of heroin consumption since 1974, and the continuing abuse of other dangerous drugs, clearly indicate the need for effective, ongoing, and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy.

21 U.S.C. 1102

### § 102. Declaration of national policy.

The Congress declares that it is the policy of the United States and the purpose of this Act to focus the comprehensive resources of the Federal Government and bring them to bear on drug abuse with the objective of significantly reducing the incidence, as well as the social and personal costs, of drug abuse in the United States, and to develop and assure the implementation of a comprehensive, coordinated, long-term Federal strategy to combat drug abuse.

21 U.S.C. 1103

### § 103. Definitions.

(a) The definitions set forth in this section apply for the purposes of this Act.

(b) The term "drug abuse prevention function" means any program or activity relating to drug abuse education or training (including preventive efforts directed to individuals who are not users of drugs and to individuals who are marginal users of drugs), treatment, rehabilitation, or research, and includes any such function even when performed by an organization whose primary mission is in the field of drug traffic prevention functions, or is unrelated to drugs. The term does not include any function defined in subsection (c) as a "drug traffic prevention function".

(c) The term "drug traffic prevention function" means

(1) the conduct of formal or informal diplomatic or international negotiations at any level, whether with foreign governments, other foreign governmental or nongovernmental persons or organizations of any kind, or any international organization of any kind, relating to traffic (whether licit or illicit) in drugs subject to abuse, or any measures to control or curb such traffic; or

(2) any of the following law enforcement activities or proceedings:

(A) the investigation and prosecution of drug offenses;

(B) the impanelment of grand juries;

(C) programs or activities involving international narcotics control; and

(D) the detection and suppression of illicit drug supplies.

(d) The term "drug abuse function" means any function described in subsection (b) or (c) of this section, or both.

## TITLE II—OFFICE OF DRUG ABUSE POLICY

CHAPTER	Sec.
1. GENERAL PROVISIONS-----	201
2. FUNCTIONS OF THE DIRECTOR-----	221

### Chapter 1.—GENERAL PROVISIONS

Sec.
201. Establishment of Office.
202. Appointment of Director.
203. Appointment of Deputy Director.
204. Delegation.
205. Officers and employees.
206. Employment of experts and consultants.
207. Acceptance of uncompensated services.
208. Notice relating to the control of dangerous drugs.
209. Compensation of Director and Deputy Director.
210. Statutory authority unaffected.
211. Appropriations authorized.

#### § 201. Establishment of Office

21 U.S.C. 1111

There is established in the Executive Office of the President an office to be known as the Office of Drug Abuse Policy (hereinafter in this Act referred to as the "Office"). The establishment of the Office in the Executive Office of the President shall not be construed as affecting access by the Congress, or committees of either House, (1) to information, documents, and studies in the possession of, or conducted by, the Office or (2) to personnel of the Office.

#### § 202. Appointment of Director

21 U.S.C. 1112

The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall not hold office in any department or agency of the United States engaged in any drug traffic prevention function (as defined in section 103), whether on an acting basis or otherwise, except on such occasions as may be appropriate in connection with the performance of such duties as may be assigned to him pursuant to section 222.

#### § 203. Appointment of Deputy Director

21 U.S.C. 1113

There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may assign or delegate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

21 U.S.C. 1114    **§ 204. Delegation**

Unless specifically prohibited by law, the Director may, without being relieved of his responsibility, perform any of his functions or duties or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Office as he may designate.

21 U.S.C. 1115    **§ 205. Officers and employees**

(a) The Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him. At the discretion of the Director, any officer or employee of the Office may be allowed and paid travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for individuals employed intermittently.

(b) In addition to the number of positions which may be placed in grades GS-16, GS-17, and GS-18 under section 5108 of title 5, United States Code, and without prejudice to the placement of other positions in the Office in such grades under any authority other than this subsection, not to exceed four positions in the Office may be placed in grades GS-16, GS-17, and GS-18, but in accordance with the standards and procedures prescribed by chapter 51 of such title.

21 U.S.C. 1116    **§ 206. Employment of experts and consultants**

The Director may procure services as authorized by section 3109 of title 5, United States Code, and may pay a rate for such services not in excess of the rate in effect for grade GS-18 of the General Schedule. The Director may employ individuals under this section without regard to any limitation, applicable to services procured under such section 3109, on the number of days or the period of such services, except that, at any one time, not more than six individuals may be employed under this section without regard to such limitation.

21 U.S.C. 1117    **§ 207. Acceptance of uncompensated services**

The Director is authorized to accept and employ in furtherance of the purpose of this Act voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

21 U.S.C. 1118    **§ 208. Notice relating to the control of dangerous drugs**

Whenever the Attorney General determines that there is evidence that—

(1) a drug or other substance, which is not a controlled substance (as defined in section 102(6) of the Controlled Substances Act), has a potential for abuse, or

(2) a controlled substance should be transferred or removed from a schedule under section 202 of such Act,



he shall, prior to initiating any proceeding under section 201(a) of such Act, give the Director timely notice of such determination. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health, Education, and Welfare to the Director.

### **§ 209. Compensation of Director and Deputy Director** 21 U.S.C. 1119

(a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(64) Director of the Office of Drug Abuse Policy.”

(b) Paragraph (95) of section 5315 of such title is amended to read as follows:

“(95) Deputy Director of the Office of Drug Abuse Policy.”

### **§ 210. Statutory authority unaffected** 21 U.S.C. 1120

Nothing in this title shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces or the authority of the Administrator of Veterans' Affairs with respect to the furnishing of health care and related services to veterans.

### **§ 211. Appropriations authorized** 21 U.S.C. 1121

For purposes of carrying out this title, there is authorized to be appropriated \$700,000 for the fiscal year ending June 30, 1976, \$500,000 for the period July 1, 1976, through September 30, 1976, \$2,000,000 for the fiscal year ending September 30, 1977, and \$2,000,000 for the fiscal year ending September 30, 1978.

## **Chapter 2.—FUNCTIONS OF THE DIRECTOR**

- Sec.  
221. Concentration of Federal effort.  
222. International negotiations.  
223. Annual report.

### **§ 221. Concentration of Federal effort** 21 U.S.C. 1131

(a) The Director shall make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and shall coordinate the performance of such functions by Federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of Federal departments and agencies performing drug abuse functions to implement the policies, priorities, and objectives recommended under this subsection.

(b) To carry out subsection (a), the Director shall—  
(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions;

(2) conduct, or provide for, evaluations of (A) the performance of drug abuse functions by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such functions; and

(3) seek to assure that Federal departments and agencies, in the performance of drug abuse functions, construe drug abuse as a health problem.

(c) Federal departments and agencies engaged in drug abuse functions shall submit to the Director such information and reports with respect to such functions as he may reasonably require to carry out the purposes of this title.

21 U.S.C. 1132

#### **§ 222. International negotiations**

The President may designate the Director to represent the Government of the United States in discussions and negotiations relating to drug abuse functions.

21 U.S.C. 1133

#### **§ 223. Annual report**

The Director shall submit to the President and the Congress, prior to March 1 of each year which begins after the enactment of this title, a written report on the activities of the Office. The report shall specify the objectives, activities, and accomplishments of the Office, and shall contain an accounting of funds expended under this title.

### **TITLE III—NATIONAL DRUG ABUSE STRATEGY**

Sec.

301. Development of strategy required.

302. Strategy Council.

303. Content of strategy.

304. Preparation of strategy.

305. Review and revision.

21 U.S.C. 1161

#### **§ 301. Development of strategy required**

Immediately upon the enactment of this title, the President shall direct the development of a comprehensive, coordinated long-term Federal strategy (hereinafter in this title referred to as the "strategy") for all drug abuse prevention functions and all drug traffic prevention functions conducted, sponsored, or supported by any department or agency of the Federal Government. The strategy shall be initially promulgated by the President no later than nine months after the enactment of this title.

21 U.S.C. 1162

#### **§ 302. Strategy Council.**

To develop the strategy, the President shall establish a Strategy Council whose membership shall include the Di-

rector of the Office of Drug Abuse Policy, the Attorney General, the Secretaries of Health, Education, and Welfare, State, and Defense, the Administrator of Veterans' Affairs, other officials as the President may deem appropriate, and no fewer than three members from outside the Federal Government. Until the date specified in section 104 of this Act, the Director shall provide such services as are required to assure that the strategy is prepared, and thereafter such services shall be provided by such officer or agency of the United States as the President may designate. The strategy shall be subject to review and written comment by those Federal officials participating in its preparation.

### **§ 303. Content of strategy.**

21 U.S.C. 1163

The strategy shall contain

(1) an analysis of the nature, character, and extent of the drug abuse problem in the United States, including examination of the interrelationships between various approaches to solving the drug abuse problem and their potential for interacting both positively and negatively with one another;

(2) a comprehensive Federal plan, with respect to both drug abuse prevention functions and drug traffic prevention functions, which shall specify the objectives of the Federal strategy and how all available resources, funds, programs, services, and facilities authorized under relevant Federal law should be used; and

(3) an analysis and evaluation of the major programs conducted, expenditures made, results achieved, plans developed, and problems encountered in the operation and coordination of the various Federal drug abuse prevention functions and drug traffic prevention functions.

### **§ 304. Preparation of strategy.**

21 U.S.C. 1164

To facilitate the preparation of the strategy, the Council shall

(1) engage in the planning necessary to achieve the objectives of a comprehensive, coordinated long-term Federal strategy, including examination of the overall Federal investment to combat drug abuse;

(2) at the request of any member, require departments and agencies engaged in Federal drug abuse prevention functions and drug traffic prevention functions to submit such information and reports and to conduct such studies and surveys as are necessary to carry out the purposes of this title, and the departments and agencies shall submit to the Council and to the requesting member the information, reports, studies, and surveys so required;



(3) evaluate the performance and results achieved by Federal drug abuse prevention functions and drug traffic prevention functions and the prospective performance and results that might be achieved by programs and activities in addition to or in lieu of those currently being administered; and

(4) from time to time make recommendations to, and coordinate with, the Director of the Office of Drug Abuse Policy with respect to the performance of his functions under this Act.

21 U.S.C. 1165

### **§ 305. Review and revision.**

The strategy shall be reviewed, revised as necessary, and promulgated as revised prior to June 1 of each year.

## **TITLE IV—OTHER FEDERAL PROGRAMS**

Sec.

401. Community mental health centers.

402. Public Health Service facilities.

403. State plan requirements.

404. Drug abuse prevention function appropriations.

405. Special reports by the Secretary of Health, Education, and Welfare.

406. Additional drug abuse prevention functions of the Secretary of Health, Education, and Welfare.

407. Admission of drug abusers to private and public hospitals.

408. Confidentiality of patient records.

409. Formula grants.

410. Special project grants and contracts.

411. Records and audit.

412. National Drug Abuse Training Center.

413. Drug abuse among Federal civilian employees.

21 U.S.C. 1171

### **§ 404. Drug abuse prevention function appropriations.**

Any request for appropriations by a department or agency of the Government submitted after the date of enactment of this Act shall specify (1) on a line item basis, that part of the appropriations which the department or agency is requesting to carry out its drug abuse prevention functions, and (2) the authorization of the appropriations requested to carry out each of its drug abuse prevention functions.

21 U.S.C. 1172

### **§ 405. Special reports by the Secretary of Health, Education, and Welfare.**

(a) The Secretary of Health, Education, and Welfare (hereinafter in this title referred to as the "Secretary") shall develop and submit to the Congress and the Director within ninety days after the date of enactment of this Act, a written plan for the administration and coordination of all drug abuse prevention functions within the Department of Health, Education, and Welfare. Such report shall list each program conducted and each service provided in carrying out such functions, describe

how such programs and services are to be coordinated, and describe the steps taken or to be taken to insure that such programs and services will be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines. The plan shall be consistent with the policies, priorities, and objectives established by the Director under section 221 of this Act.

(b) The Secretary shall submit to the Director, for inclusion in the annual report required by section 233 of this Act, a report describing model and experimental methods and programs for the treatment and rehabilitation of drug abusers, and describing the advantages of each such method and program and an evaluation of the success or failure of each such method or program. The Secretary's report shall contain recommendations for the development of new and improved methods and programs for the treatment and rehabilitation of drug abusers, for community implementation of such methods and programs, and for such legislation and administrative action as he deems appropriate.

**§ 406. Additional drug abuse prevention functions of the Secretary of Health, Education, and Welfare.**

21 U.S.C. 1173

(a) The Secretary shall

(1) operate an information center for the collection, preparation, and dissemination of all information relating to drug abuse prevention functions, including information concerning State and local drug abuse treatment plans, and the availability of treatment resources, training and educational programs, statistics, research, and other pertinent data and information;

(2) investigate and publish information concerning uniform methodology and technology for determining the extent and kind of drug use by individuals and effects which individuals are likely to experience from such use;

(3) gather and publish statistics pertaining to drug abuse and promulgate regulations specifying uniform statistics to be furnished, records to be maintained, and reports to be submitted, on a voluntary basis by public and private entities and individuals respecting drug abuse; and

(4) review, and publish an evaluation of, the adequacy and appropriateness of any provision relating to drug abuse prevention functions contained in the comprehensive State health, welfare, or rehabilitation plans submitted to the Federal Government pursuant to Federal law, including, but not limited

to, those submitted pursuant to section 5(a) of the Vocational Rehabilitation Act, sections 314(d)(2) (K) and 604(a) of the Public Health Service Act, section 1902(a) of title XIX of the Social Security Act, and section 204(a) of part A of the Community Mental Health Centers Act.

(b) After December 31, 1974, the Secretary shall carry out his functions under subsection (a) through the National Institute on Drug Abuse.

21 U.S.C. 1174

**§ 407. Admission of drug abusers to private and public hospitals**

(a) Drug abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their drug abuse or drug dependence, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriate to any Federal department or agency.

(b) (1) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of drug abusers in hospitals which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital.

(2) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) of this subsection to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse or drug dependence. In prescribing and implementing regulations pursuant to this paragraph, the



Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

#### § 408. Confidentiality of patient records

21 U.S.C. 1175

(a) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for purposes and under the circumstances expressly authorized under subsection (b) of this section.

(b) (1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(c) Except as authorized by a court order granted under subsection (b) (2) (C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

(d) The prohibitions of this section continue to apply to records concerning any individual who has been a

patient, irrespective of whether or when he ceases to be a patient.

(e) The prohibitions of this section do not apply to any interchange of records—

(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

(2) between such components and the Armed Forces.

(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense.

(g) Except as provided in subsection (h) of this section, the Secretary of Health, Education, and Welfare, after consultation with the Administrator of Veterans' Affairs and the heads of other Federal departments and agencies substantially affected thereby, shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b) (2) (C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(h) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations established by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

21 U.S.C. 1176

#### § 409. Formula grants.

(a) There are authorized to be appropriated \$15,000,000 for the fiscal year ending June 30, 1972, \$30,000,000 for the fiscal year ending June 30, 1973, \$40,000,000 for the fiscal year ending June 30, 1974, \$45,000,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976, \$11,250,000 for the period July 1, 1976 through September 30, 1976, and \$45,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, for grants to States in accordance with this section. For

the purpose of this section, the term "State" includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, in addition to the fifty States.

(b) Grants to States may be made under this section

(1) for the preparation of plans which are intended to meet the requirements of subsection (e) of this section;

(2) for the expenses (other than State administrative expenses) of (A) carrying out projects under and otherwise implementing plans approved by the Secretary pursuant to subsection (f) of this section, and (B) evaluating the results of such plans as actually implemented; and

(3) for the State administrative expenses of carrying out plans approved by the Secretary pursuant to subsection (f) of this section, except that no grant under this paragraph to any State for any year may exceed \$50,000 or 10 per centum of the total allotment of that State for that year, whichever is less.

(c) (1) (A) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated pursuant to subsection (a) for such year among the States on the basis of the relative population, financial need, and the need for more effective conduct of drug abuse prevention functions, except that no such allotment to any State (other than the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands), shall be less than \$100,000 multiplied by a fraction whose numerator is the amount actually appropriated for the purposes of this section for the fiscal year for which the allotment is made, and whose denominator is the amount authorized to be appropriated by subsection (a) for that year, except that in the case of a State (other than the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific Islands) which can demonstrate a need (determined in accordance with the methodology established under subparagraph (B) (iii)) for a minimum allotment in excess of \$100,000, multiplied by such fraction, the minimum allotment for such State may be increased by up to 50 percent in accordance with such demonstrated need.

(B) (i) Not later than June 15 of each year, the Secretary, after consultation with the Director of the National Institute on Drug Abuse, shall publish a notice of proposed rulemaking setting forth a formula to be used in making allotments pursuant to subparagraph (A) of this paragraph. Such notice of published rulemaking shall be in accordance with section 553 of title 5, United States Code, except that a sixty-day period shall be allowed for public comment.



(ii) Not later than the first day of each fiscal year, the Secretary shall publish final regulations setting forth the allotment formula to be used pursuant to subparagraph (A) of this paragraph in making allotments during such fiscal year.

(iii) In determining, for the purposes of paragraph (1), the extent of need for more effective conduct of drug abuse prevention functions, the Secretary shall (within one hundred and eighty days after the date of enactment of this paragraph) by regulation establish a methodology to assess and determine the incidence and prevalence of drug abuse to be applied in determining such need.

(2) Any amount allotted under paragraph (1) of this subsection to a State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year, may be reallotted by the Secretary to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this section, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under paragraph (1) of this subsection to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such four States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this section, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

(d) No grant may be made under subsection (b) (1) of this section unless an application therefor has been submitted to, and approved by, the Secretary: Such application shall be in such form, submitted in such manner, and contain such information, including assurances satisfactory to the Secretary that the grant will be used by the State for the preparation of a State plan which will meet the requirements of subsection (e), as the Secretary shall by regulation prescribe.

(e) Any State desiring to receive a grant under subsection (b) (2) or (b) (3) of this section shall submit to the Secretary, not later than July 15 of each calendar year, a State plan for planning, establishing, conducting, and coordinating projects for the development of more effective drug abuse prevention functions in the State and for evaluating the conduct of such functions in the State. Each State plan shall pertain to the twelve-month period of the State fiscal year which commences in the calendar year in which it is required to be submitted, and

(1) designate or establish a single State agency as the sole agency for the preparation and administration of the plan, or for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated or established in accordance with paragraph (1) will have authority to prepare and administer, or supervise the preparation and administration of, such plan in conformity with this subsection;

(3) provide for the designation of a State advisory council which shall include representatives of non-governmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, from different geographical areas of the State, and which shall consult with the State agency in carrying out the plan;

(4) describe the drug abuse prevention functions to be carried out under the plan with assistance under this section;

(5) (A) set forth, in accordance with criteria established by the Secretary, a detailed survey of the local and State needs for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence, and a plan for the development and distribution of such facilities and programs throughout the State in accordance with such needs; and (B) include in the survey conducted pursuant to subparagraph (A) an identification of the need for prevention and treatment of drug

abuse and drug dependence by women and by individuals under the age of eighteen and provide assurance that prevention and treatment programs within the State will be designed to meet such need;

(6) provide for coordination of existing and planned treatment and rehabilitation programs and activities, particularly in urban centers;

(7) provide a scheme and methods of administration which will supplement, broaden, and complement State health plans developed under section 3314 (d) (2) of the Public Health Service Act;

(8) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(9) provide that the State agency will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(10) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary an analysis and evaluation of the effectiveness of the prevention and treatment programs and activities carried out under the plan, and any modifications in the plan which it considers necessary;

(11) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds;

(12) provide reasonable assurances that treatment or rehabilitation projects or programs supported by funds made available under this section have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation programs or projects; and

(13) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions of this section.



(f) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (e) of this section. A State plan submitted under subsection (e) may also contain provisions relating to alcoholism or mental health. The Secretary, acting through the National Institute on Drug Abuse, shall establish procedures by which the National Institute on Drug Abuse shall review each State plan submitted pursuant to subsection (e) and under which it shall complete its review of each such plan not later than September 15 of the calendar year in which the plan is submitted, or not later than sixty days after the plan is received by the National Institute on Drug Abuse, whichever is later.

(g) From the allotment of a State, the Secretary shall make grants to that State in accordance with this section. Payments under such grants may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

#### **§ 410. Special project grants and contracts.**

21 U.S.C. 1177

(a) The Secretary shall

(1) make grants to public and private nonprofit agencies, organizations, or institutions and enter into contracts with public and private agencies, organizations, institutions, and individuals to provide training seminars, educational programs, and technical assistance for the development of drug abuse prevention, treatment, and rehabilitation programs for employees in the private and public sectors;

(2) make grants to public and private nonprofit agencies, organizations, or institutions and enter into contracts with public and private agencies, organizations, and institutions, to provide directly or through contractual arrangements for vocational rehabilitation counseling, education, and services for the benefit of persons in treatment programs and to encourage efforts by the private and public sectors of the economy to recruit, train, and employ participants in treatment programs;

(3) make grants to public and private nonprofit agencies, organizations, or institutions and enter into contracts with public and private agencies, organizations, institutions, and individuals to establish, conduct, and evaluate drug abuse prevention, treatment, and rehabilitation programs within State and local criminal justice systems;

(4) make grants to or contracts with groups composed of individuals representing a broad cross-section of medical, scientific, or social disciplines for the

purpose of determining the causes of drug abuse in a particular area, prescribing methods for dealing with drug abuse in such an area, or conducting programs for dealing with drug abuse in such an area;

(5) make research grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with public and private agencies, organizations, and institutions, and individuals for improved drug maintenance techniques or programs; and

(6) make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with public and private agencies, organizations, institutions, and individuals to establish, conduct, and evaluate drug abuse prevention and treatment programs.

In the implementation of his authority under this section, the Secretary shall accord a high priority to applications for grants or contracts for primary prevention programs. For purposes of the preceding sentence, primary prevention programs include programs designed to discourage persons from beginning drug abuse. To the extent that appropriations authorized under this section are used to fund treatment services, the Secretary shall not limit such funding to treatment for opiate abuse, but shall also provide support for treatment for nonopiate drug abuse including polydrug abuse.

(b) There are authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1972; \$65,000,000 for the fiscal year ending June 30, 1973; \$100,000,000 for the fiscal year ending June 30, 1974; \$160,000,000 for each of the fiscal years ending June 30, 1975 and June 30, 1976; \$40,000,000 for the period July 1, 1976, through September 30, 1976; and \$160,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, to carry out this section.

(c) (1) In carrying out this section, the Secretary shall require coordination of all applications for programs in a State and shall not give precedence to public agencies over private agencies, institutions, and organizations, or to State agencies over local agencies.

(2) Each applicant within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency (if any) designated or established under section 409. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for

treatment and prevention of drug abuse under section 409. The State shall furnish the applicant a copy of any such evaluation. A State if it so desires may, in writing, waive its rights under this paragraph.

(3) Approval of any application for a grant or contract under this section by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria that

(A) provide that the activities and services for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

(B) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

(C) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

(D) provide for reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

(4) Each applicant within a State, upon filing its application with the Secretary for a grant or contract to provide treatment or rehabilitation services shall provide a proposed performance standard or standards, to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation program or project.

(d) The Secretary shall give special consideration to applications under this section for programs and projects for prevention and treatment of drug abuse and drug dependence by women and for programs and projects for prevention and treatment of drug abuse and drug dependence by individuals under the age of eighteen.

(e) Payment under grants or contracts under this section may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

#### **§ 411. Records and audit.**

(a) Each recipient of assistance under section 409 or 410 pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the



total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to such grants or contracts.

21 U.S.C. 1179

#### **§ 412. National Drug Abuse Training Center.**

(a) The Director shall establish a National Drug Abuse Training Center (hereinafter in this section referred to as the "Center") to develop, conduct, and support a full range of training programs relating to drug abuse prevention functions. The Director shall consult with the National Advisory Council for Drug Abuse Prevention regarding the general policies of the Center. The Director may supervise the operation of the Center initially, but shall transfer the supervision of the operation of the Center to the National Institute on Drug Abuse not later than December 31, 1974.

(b) The Center shall conduct or arrange for training programs, seminars, meetings, conferences, and other related activities, including the furnishing of training and educational materials for use by others.

(c) The services and facilities of the Center shall, in accordance with regulations prescribed by the Director, be available to (1) Federal, State, and local government officials, and their respective staffs, (2) medical and paramedical personnel, and educators, and (3) other persons, including drug dependent persons, requiring training or education in drug abuse prevention.

(d) (1) For the purpose of carrying out this section, there are authorized to be appropriated \$1,000,000 for the fiscal year ending June 30, 1972, \$3,000,000 for the fiscal year ending June 30, 1973, \$5,000,000 for the fiscal year ending June 30, 1974, and \$6,000,000 for the fiscal year ending June 30, 1975.

(2) Sums appropriated under this subsection shall remain available for obligation or expenditure in the fiscal year for which appropriated and in the fiscal year next following.

21 U.S.C. 1180

#### **§ 413. Drug abuse among Federal civilian employees.**

(a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Director and with other Federal agencies and departments, appropriate prevention, treatment, and rehabilitation programs and services for drug abuse

among Federal civilian employees. Such policies and services shall make optimal use of existing governmental facilities, services, and skills.

(b) The Director shall foster similar drug abuse prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

(c) (1) No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior drug abuse.

(2) This subsection shall not apply to employment (A) in the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, or any other department or agency of the Federal Government designated for purposes of national security by the President, or (B) in any position in any department or agency of the Federal Government, not referred to in clause (A), which position is determined pursuant to regulations prescribed by the head of such department or agency to be a sensitive position.

(d) This section shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

## **TITLE V—NATIONAL INSTITUTE ON DRUG ABUSE; NATIONAL ADVISORY COUNCIL ON DRUG ABUSE**

Sec.

501. Establishment of Institute.

502. Technical assistance to State and local agencies.

503. Encouragement of certain research and development.

### **§ 501. Establishment of Institute.**

21 U.S.C. 1191

(a) There is established the National Institute on Drug Abuse (hereinafter in this title referred to as the "Institute") to administer the programs and authorities of the Secretary of Health, Education, and Welfare (hereinafter in this title referred to as the "Secretary") with respect to drug abuse prevention functions. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 301, 302, and 303 of the Public Health Service Act with respect to drug abuse, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of drug abuse and for the rehabilitation of drug abusers. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

(b) (1) The Institute shall be under the direction of a Director (hereinafter in this title referred to as the "Director") who shall be appointed by the Secretary.

(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute.

(c) The programs of the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

21 U.S.C. 1192

#### **§ 502. Technical assistance to State and local agencies**

(a) The Director shall—

(1) coordinate or assure coordination of Federal drug abuse prevention functions with corresponding functions of State and local governments; and

(2) provide for a central clearinghouse for Federal, State, and local governments, public and private agencies, and individuals seeking drug abuse information and assistance from the Federal Government.

(b) In carrying out his functions under this section, the Director may—

(1) provide technical assistance—including advice and consultation relating to local programs, technical and professional assistance, and, where deemed necessary, use of task forces of public officials or other persons assigned to work with State and local governments—to analyze and identify State and local drug abuse problems and assist in the development of plans and programs to meet the problems so identified;

(2) convene conferences of State, local, and Federal officials, and such other persons as the Director shall designate, to promote the purposes of this Act, and the Director is authorized to pay reasonable expenses of individuals incurred in connection with their participation in such conferences; and

(3) draft and make available to State and local governments model legislation with respect to State and local drug abuse programs and activities, and provide for uniform forms for, procedures for the submission of, and criteria for the consideration of applications of State and local governments and individuals for grants and contracts for drug abuse control and treatment programs.



(c) In implementation of his authority under subsection (b) (1), the Director may—

(1) take such action as may be necessary to request the assignment, with or without reimbursement, of any individual employed by any Federal department or agency and engaged in any Federal drug abuse prevention function or drug traffic prevention function to serve as a member of any such task force; except that no such person shall be so assigned during any one fiscal year for more than an aggregate of ninety days without the express approval of the head of the Federal department or agency with respect to which he was so employed prior to such assignment;

(2) assign any person employed by the Institute to serve as a member of any such task force or to coordinate management of such task forces; and

(3) enter into contracts or other agreements with any person or organization to serve on or work with such task forces.

**§ 503. Encouragement of certain research and development** 21 U.S.C. 1193

(a) The director shall encourage and promote (by grants, contracts, or otherwise) expanded research programs to create, develop, and test—

(1) synthetic analgesics, antitussives, and other drugs which are—

(A) nonaddictive, or

(B) less addictive than opium or its derivatives,

to replace opium and its derivatives in medical use;

(2) long-lasting, nonaddictive blocking or antagonistic drugs or other pharmacological substances for treatment of heroin addiction; and

(3) detoxification agents which, when administered, will ease the physical effects of withdrawal from heroin addiction.

In carrying out this section the Director is authorized to establish, or provide for the establishment of, clinical research facilities.

(b) For purposes of carrying out subsection (a) of this section there are authorized to be appropriated \$7,000,000 for the fiscal year ending June 30, 1976, \$1,750,000 for the period July 1, 1976, through September 30, 1976, \$7,000,000 for the fiscal year ending September 30, 1977, and \$7,000,000 for the fiscal year ending September 30, 1978.



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## APPENDIX

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# ADMINISTRATIVE PROCEDURE

## APPENDIX

### TABLE OF CONTENTS

	Page
Administrative procedure provisions.....	A5
5 U.S.C., chapter 5, subchapter II.—Administrative procedure.....	A5
Section 551. Definitions .....	A5
Section 552. Public information; agency rules, opinions, orders, records, and proceedings.....	A6
Section 552a. Records maintained on individuals.....	A11
Section 552b. Open meetings.....	A21
Section 553. Rulemaking .....	A26
Section 554. Adjudications .....	A27
Section 555. Ancillary matters.....	A28
Section 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision .....	A29
Section 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record .....	A30
Section 558. Imposition of sanctions; determination of applica- tions for licenses; suspension, revocation, and expiration of licenses.....	A32
Section 559. Effect on other laws; effect of subsequent statute.....	A32
5 U.S.C., chapter 7.—Judicial review.....	A32
Section 701. Application; definitions.....	A32
Section 702. Right of review.....	A33
Section 703. Form and venue of proceeding.....	A33
Section 704. Actions reviewable.....	A34
Section 705. Relief pending review.....	A34
Section 706. Scope of review.....	A34
Hearing examiners. (5 U.S.C. 3105, 3344, 5362, and 7521).....	A34
Section 3105. Appointment of hearing examiners.....	A34
Section 3344. Details; hearing examiners.....	A35
Section 5362. Hearing examiners.....	A35
Section 7521. Removal .....	A35
Administrative practice.....	A37
5 U.S.C., chapter 5, subchapter I.—General provisions.....	A37
Section 500. Administrative practice; general provisions.....	A37
Section 503. Witness fees and allowances.....	A38
Rulemaking authority; delegation.....	A39
5 U.S.C. 301 and 302.....	A39
Section 301. Departmental regulations.....	A39
Section 302. Delegation of authority.....	A39
Selected provisions of title 28, United States Code, relating to judicial review .....	A41
28 U.S.C. 1254, 1331, 1391(e) and 2112.....	A41
Section 1254. Courts of appeals; certiorari; appeal; certified questions .....	A41
Section 1331. Federal question; amount in controversy; costs.....	A41
Section 1391(e). Venue .....	A41
Section 2112. Record on review and enforcement of agency orders .....	A42

	Page
28 U.S.C., chapter 158.—Orders of Federal agencies; review-----	A43
Section 2341. Definitions-----	A43
Section 2342. Jurisdiction of court of appeals-----	A44
Section 2343. Venue-----	A44
Section 2344. Review of orders; time; notice; contents of petition; service-----	A44
Section 2345. Prehearing conference-----	A44
Section 2346. Certification of record on review-----	A45
Section 2347. Petitions to review; proceedings-----	A45
Section 2348. Representation in proceeding; intervention-----	A45
Section 2349. Jurisdiction of the proceeding-----	A46
Section 2350. Review in Supreme Court on certiorari or certification-----	A46
Section 2351. Enforcement of orders by district courts-----	A46
Cross reference tables (APA to title 5; title 5 to APA)-----	A47



## ADMINISTRATIVE PROCEDURE PROVISIONS

### Title 5, United States Code

#### Chapter 5.—ADMINISTRATIVE PROCEDURE

##### SUBCHAPTER II.—ADMINISTRATIVE PROCEDURE

#### § 551. Definitions

For the purpose of this subchapter—

(1) “agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the government of the District of Columbia;

or except as to the requirements of section 552 of this title—

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891–1902, and former section 1641(b)(2), of title 50, appendix;

(2) “person” includes an individual, partnership, corporation, association, or public or private organization other than an agency;

(3) “party” includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;

(4) “rule” means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting or practices bearing on any of the foregoing;

(5) “rule making” means agency process for formulating, amending, or repealing a rule;

(6) "order" means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;

(7) "adjudication" means agency process for the formulation of an order;

(8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;

(9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;

(10) "sanction" includes the whole or a part of an agency—

(A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;

(B) withholding of relief;

(C) imposition of penalty or fine;

(D) destruction, taking, seizure, or withholding of property;

(E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) requirement, revocation, or suspension of a license; or

(G) taking other compulsory or restrictive action;

(11) "relief" includes the whole or a part of an agency—

(A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;

(B) recognition of a claim, right, immunity, privilege, exemption, or exception; or

(C) taking of other action on the application or petition of, and beneficial to, a person;

(12) "agency proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of this section;

(13) "agency action" includes the whole or part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act; and

(14) "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this subchapter.

## **§ 552. Public information; agency rules, opinions, orders, records, and proceedings**

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or



(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4) (A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acting arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disci-

plinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6) (A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection shall—

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2) or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are—

(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institution; or

(9) geological and geophysical information and data, including maps, concerning wells.



Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include—

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a) (6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a) (4) (F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subsections (a) (4) (E), (F) and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

#### **§ 552a. Records maintained on individuals**

(a) **DEFINITIONS.**—For purposes of this section—

(1) the term "agency" means agency as defined in section 552(e) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use, or disseminate;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13; and

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(b) **CONDITIONS OF DISCLOSURE.**—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a) (7) of this section and described under subsection (e) (4) (D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or

instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) pursuant to the order of a court of competent jurisdiction.

(c) **ACCOUNTING OF CERTAIN DISCLOSURES.**—Each agency, with respect to each system of records under its control, shall—

(1) except for disclosures made under subsections (b)(1) or

(b)(2) of this section, keep an accurate accounting of—

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) **ACCESS TO RECORDS.**—Each agency that maintains a system of records shall—

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and—

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and



(B) promptly, either—

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his requests, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and, if after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g) (1) (A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) AGENCY REQUIREMENT.—Each agency that maintains a system of records shall—

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

(A) the authority (whether granted by statute, or by Executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register at least annually a notice of the existence and character of the system of records, which notice shall include—

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

(I) the categories of sources of records in the system;

(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section,

including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained; and

(11) at least 30 days prior to publication of information under paragraph (4) (D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency.

(f) AGENCY RULES.—In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate, rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection and agency notices published under subsection (e) (4) of this section in a form available to the public at low cost.

(g) (1) CIVIL REMEDIES.—Whenever any agency—

(A) makes a determination under subsection (d) (3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d) (1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the



qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of—

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of \$1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by

the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) **RIGHTS OF LEGAL GUARDIANS.**—For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i) (1) **CRIMINAL PENALTIES.**—Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e) (4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

(j) **GENERAL EXEMPTIONS.**—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553 (b) (1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c) (1) and (2), (e) (4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) if the system of records is—

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553 (c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) **SPECIFIC EXEMPTIONS.**—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b) (1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c) (3), (d), (e) (1), (e) (4) (G), (H), and (I) and (f) of this section if the system of records is—

(1) subject to the provisions of section 552(b) (1) of this title;

(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j) (2) of this section: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

(4) required by statute to be maintained and used solely as statistical records;

(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(1) (1) **ARCHIVAL RECORDS.**—Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency



which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e) (4) (A) through (G) of this section) shall be published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e) (4) (A) through (G) and (e) (9) of this section.

(m) GOVERNMENT CONTRACTORS.—When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(n) MAILING LISTS.—An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) REPORT ON NEW SYSTEMS.—Each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personnel or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

(p) ANNUAL REPORT.—The President shall submit to the Speaker of the House and the President of the Senate, by June 30 of each calendar year, a consolidated report, separately listing for each Federal agency the number of records contained in any system of records which were exempted from the application of this section under the provisions of subsections (j) and (k) of this section during the preceding calendar year, and the reasons for the exemptions, and such other information as indicates efforts to administer fully this section.

(q) EFFECT OF OTHER LAWS.—No agency shall rely on any exemn-

tion contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

### § 552b. Open meetings

(a) For purposes of this section—

(1) the term “agency” means any agency, as defined in section 552(e) of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(2) the term “meeting” means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsection (d) or (e); and

(3) the term “member” means an individual who belongs to a collegial body heading an agency.

(b) Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in subsection (c), every portion of every meeting of any agency shall be open to public observation.

(c) Except in a case where the agency finds that the public interest requires otherwise, the second sentence of subsection (b) shall not apply to any portion of an agency meeting, and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

(1) disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) relate solely to the internal personnel rules and practices of an agency;

(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) involve accusing any person of a crime, or formally censuring any person;

(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production

of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) disclose information the premature disclosure of which would—

(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that subparagraph (B) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

(d)(1) Action under subsection (c) shall be taken only when a majority of the entire membership of the agency (as defined in subsection (a)(1) votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c), or with respect to any information which is proposed to be withheld under subsection (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion



to the public for any of the reasons referred to in paragraph (5), (6), or (7) of subsection (c), the agency, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(3) Within one day of any vote taken pursuant to paragraph (1) or (2), the agency shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the agency shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9) (A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members of the agency votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. The provisions of paragraphs (1), (2), and (3) of this subsection and subsection (e) shall not apply to any portion of a meeting to which such regulations apply: *Provided*, That the agency shall, except to the extent that such information is exempt from disclosure under the provisions of subsection (e), provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

(e) (1) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the agency determines by a recorded vote that agency business requires that such meeting be called at an earlier date, in which case the agency shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(2) The time or place of a meeting may be changed following the public announcement required by paragraph (1) only if the agency publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (A) a majority of the entire membership of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (B) the agency publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(3) Immediately following each public announcement required by this subsection, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of

the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting, shall also be submitted for publication in the Federal Register.

(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c), the General Counsel or chief legal officer of the agency shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the agency. The agency shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (8), (9) (A), or (10) of subsection (c), the agency shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) The agency shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (1)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the agency determines to contain information which may be withheld under subsection (c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later.

(g) Each agency subject to the requirements of this section shall, within 180 days after the date of enactment of this section, following consultation with the Office of the Chairman of the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any person, promulgate regulations to implement the requirements of subsections (b) through (f) of this section. Any person may bring a proceeding in the United States District Court for the District of Columbia to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein. Subject to any limitations of time provided by law, any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of



subsections (b) through (f) of this section and to require the promulgation of regulations that are in accord with such subsections.

(h) (1) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (b) through (f) of this section by declaratory judgment, injunctive relief, or other relief as may be appropriate. Such actions may be brought by any person against an agency prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the agency in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the agency meeting is held or in which the agency in question has its headquarters, or in the District Court for the District of Columbia. In such actions a defendant shall serve his answer within thirty days after the service of the complaint. The burden is on the defendant to sustain his action. In deciding such cases the court may examine in camera any portion of the transcript, electronic recording, or minutes of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the parties, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section or ordering the agency to make available to the public such portion of the transcript, recording, or minutes of a meeting as is not authorized to be withheld under subsection (c) of this section.

(2) Any Federal court otherwise authorized by law to review agency action may, at the application of any person properly participating in the proceeding pursuant to other applicable law, inquire into violations by the agency of the requirements of this section and afford such relief as it deems appropriate. Nothing in this section authorizes any Federal court having jurisdiction solely on the basis of paragraph (1) to set aside, enjoin, or invalidate any agency action (other than an action to close a meeting or to withhold information under this section) taken or discussed at any agency meeting out of which the violation of this section arose.

(i) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (g) or (h) of this section, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against an agency, the costs may be assessed by the court against the United States.

(j) Each agency subject to the requirements of this section shall annually report to Congress regarding its compliance with such requirements, including a tabulation of the total number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any costs assessed against the agency in such litigation (whether or not paid by the agency).



(k) Nothing herein expands or limits the present rights of any person under section 552 of this title, except that the exemptions set forth in subsection (c) of this section shall govern in the case of any request made pursuant to section 552 to copy or inspect the transcripts, recordings, or minutes described in subsection (f) of this section. The requirements of chapter 33 of title 44, United States Code, shall not apply to the transcripts, recordings, and minutes described in subsection (f) of this section.

(l) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof required by any other provision of law to be open.

(m) Nothing in this section authorizes any agency to withhold from any individual any record, including transcripts, recordings, or minutes required by this section, which is otherwise accessible to such individual under section 552a of this title.

### § 553. Rulemaking

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms of substance of the proposed rule or a description of the subject and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

#### § 554. Adjudications

(a) This section applies, according to the provisions thereof, in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—

(1) a matter subject to a subsequent trial of the law and the facts de novo in a court;

(2) the selection or tenure of an employee, except a hearing examiner appointed under section 3105 of this title;

(3) proceedings in which decisions rest solely on inspections, tests, or elections;

(4) the conduct of military or foreign affairs functions;

(5) cases in which an agency is acting as an agent for a court; or

(6) the certification of worker representatives.

(b) Persons entitled to notice of an agency hearing shall be timely informed of—

(1) the time, place, and nature of the hearings;

(2) the legal authority and jurisdiction under which the hearing is to be held; and

(3) the matters of fact and law asserted.

When private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by the rule require responsive pleading. In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(c) The agency shall give all interested parties opportunity for—

(1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and

(2) to the extent that the parties are unable so to determine a controversy by consent, hearing and decision on notice and in accordance with sections 556 and 557 of this title.

(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—

(1) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

(2) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

- (A) in determining applications for initial licenses;
  - (B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or
  - (C) to the agency or a member or members of the body comprising the agency.
- (e) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.

### **§ 555. Ancillary matters**

(a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

(c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(d) Agency subpoenas authorized by law shall be issued to a party on request and, when required by rules of procedure on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceedings. Except in affirming a prior denial or when the denial is self-explanatory, the



notice shall be accompanied by a brief statement of the grounds for denial.

**§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision**

(a) This section applies, according to the provisions thereof, to hearings required by section 553 or 554 of this title to be conducted in accordance with this section.

(b) There shall preside at the taking of evidence—

- (1) the agency;
- (2) one or more members of the body which comprises the agency; or
- (3) one or more hearing examiners appointed under section 3105 of this title.

This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute. The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the case.

(c) Subject to published rules of the agency and within its powers, employees presiding at hearings may—

- (1) administer oaths and affirmations;
- (2) issue subpoenas authorized by law;
- (3) rule on offers of proof and receive relevant evidence;
- (4) take depositions or have depositions taken when the ends of justice would be served;
- (5) regulate the course of the hearing;
- (6) hold conferences for the settlement or simplification of the issues by consent of the parties;
- (7) dispose of procedural requests or similar matters;
- (8) make or recommend decisions in accordance with section 557 of this title; and
- (9) take other action authorized by agency rule consistent with this subchapter.

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557(d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct

such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(e) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.

**§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record**

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.

(b) When the agency did not preside at the reception of the evidence, the presiding employee or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title, shall initially decide the case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the agency makes the decision without having presided at the reception of the evidence, the presiding employee or an employee qualified to preside at hearings pursuant to section 556 of this title shall first recommend a decision, except that in rule making or determining applications for initial licenses—

(1) instead thereof the agency may issue a tentative decision or one of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.

(c) Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—

(1) proposed findings and conclusions; or

(2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and

(3) supporting reasons for the exceptions or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and

tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(B) the appropriate rule, order, sanction, relief, or denial thereof.

(d)(1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

(A) no interested person outside the agency shall make or knowingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

(i) all such written communications;

(ii) memoranda stating the substance of all such oral communications; and

(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

(D) upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subsection, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

(2) This subsection does not constitute authority to withhold information from Congress.



### **§ 558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses**

(a) This section applies, according to the provisions thereof, to the exercise of a power or authority.

(b) A sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law.

(c) When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given—

(1) notice by the agency in writing of the facts or conduct which may warrant the action; and

(2) opportunity to demonstrate or achieve compliance with all lawful requirements.

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

### **§ 559. Effect on other laws; effect of subsequent statute**

This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2) (E), 5362, and 7521 of this title, and the provisions of section 5335(a) (B) of this title that relate to hearing examiners, do not limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, requirements or privileges relating to evidence or procedure apply equally to agencies and persons. Each agency is granted the authority necessary to comply with the requirements of this subchapter through the issuance of rules or otherwise. Subsequent statute may not be held to supersede or modify this subchapter, chapter 7, sections 1305, 3105, 3344, 4301(2) (E), 5362, or 7521 of this title, or the provisions of section 5335(a) (B) of this title that relate to hearing examiners, except to the extent that it does so expressly.

\* \* \* \* \*

## **Chapter 7.—JUDICIAL REVIEW**

### **§ 701. Application; definitions**

(a) This chapter applies, according to the provisions thereof, except to the extent that—

(1) statutes preclude judicial review; or

(2) agency action is committed to agency discretion by law.

(b) For the purpose of this chapter—

(1) “agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

- (A) the Congress;
  - (B) the courts of the United States;
  - (C) the governments of the territories or possessions of the United States;
  - (D) the government of the District of Columbia;
  - (E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;
  - (F) courts martial and military commissions;
  - (G) military authority exercised in the field in time of war or in occupied territory; or
  - (H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b) (2), of title 50, appendix; and
- (2) "person", "rule", "order", "license", "sanction", "relief", and "agency action" have the meanings given them by section 551 of this title.

## § 702. Right of review

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States: *Provided*, That any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office, personally responsible for compliance. Nothing herein (1) affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground; or (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought.

## § 703. Form and venue of proceeding

The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. If no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement.

#### § 704. Actions reviewable

Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsiderations, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority.

#### § 705. Relief pending review

When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.

#### § 706. Scope of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

### HEARING EXAMINERS (5 U.S.C. 3105, 3344, 5362, and 7521)

\* \* \* \* \*

#### § 3105. Appointment of hearing examiners

Each agency shall appoint as many hearing examiners as are necessary for proceedings required to be conducted in accordance with



sections 556 and 557 of this title. Hearing examiners shall be assigned to cases in rotation so far as practicable, and may not perform duties inconsistent with their duties and responsibilities as hearing examiners.

\* \* \* \* \*

#### **§ 3344. Details; hearing examiners**

An agency as defined by section 551 of this title which occasionally or temporarily is insufficiently staffed with hearing examiners appointed under section 3105 of this title may use hearing examiners selected by the Civil Service Commission from and with the consent of other agencies.

\* \* \* \* \*

#### **§ 5362. Hearing examiners**

Hearing examiners appointed under section 3105 of this title are entitled to pay prescribed by the Civil Service Commission independently of agency recommendations or ratings and in accordance with subchapter III of this chapter and chapter 51 of this title.

\* \* \* \* \*

#### **§ 7521. Removal**

A hearing examiner appointed under section 3105 of this title may be removed by the agency in which he is employed only for good cause established and determined by the Civil Service Commission on the record after opportunity for hearing.

THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES

REPORT OF THE  
COMMISSIONER OF THE  
BUREAU OF MINES  
FOR THE YEAR 1907

AND  
OF THE  
BUREAU OF GEOLOGY  
FOR THE YEAR 1907

BY  
JOHN W. COVILLE,  
DIRECTOR

CHICAGO  
PUBLISHED BY THE  
BUREAU OF MINES  
1908

THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
PUBLISHED BY THE  
BUREAU OF GEOLOGY  
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## ADMINISTRATIVE PRACTICE

### Title 5, United States Code

#### Chapter 5.—ADMINISTRATIVE PROCEDURE

##### SUBCHAPTER I.—GENERAL PROVISIONS

#### § 500. Administrative practice; general provisions

(a) For the purpose of this section—

(1) “agency” has the meaning given it by section 551 of this title; and

(2) “State” means a State, a territory or possession of the United States including a Commonwealth, or the District of Columbia.

(b) An individual who is a member in good standing of the bar of the highest court of a State may represent a person before an agency on filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(c) An individual who is duly qualified to practice as a certified public accountant in a State may represent a person before the Internal Revenue Service of the Treasury Department on filing with that agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(d) This section does not—

(1) grant or deny to an individual who is not qualified as provided by subsection (b) or (c) of this section the right to appear for or represent a person before an agency or in an agency proceeding;

(2) authorize or limit the discipline, including disbarment, of individuals who appear in a representative capacity before an agency;

(3) authorize an individual who is a former employee of an agency to represent a person before an agency when the representation is prohibited by statute or regulation; or

(4) prevent an agency from requiring a power of attorney as a condition to the settlement of a controversy involving the payment of money.

(e) Subsections (b)–(d) of this section do not apply to practice before the Patent Office with respect to patent matters that continue to be covered by chapter 3 (sections 31–33) of title 35.

(f) When a participant in a matter before an agency is represented by an individual qualified under subsection (b) or (c) of this section, a notice or other written communication required or permitted to be given the participant in the matter shall be given to the representative



in addition to any other service specifically required by statute. When a participant is represented by more than one such qualified representative, service on any one of the representatives is sufficient.

\* \* \* \* \*

### § 503. Witness fees and allowances

(a) For the purpose of this section "agency" has the meaning given it by section 5721 of this title.

(b) A witness is entitled to the fees and allowances allowed by statute for witnesses in the courts of the United States when—

- (1) he is subpoenaed under section 304(a) of this title; or
- (2) he is subpoenaed to and appears at a hearing before an agency authorized by law to hold hearings and subpoena witnesses to attend the hearings.

## **RULEMAKING AUTHORITY; DELEGATION**

### **Title 5, United States Code**

#### **Chapter 3.—POWERS**

Sec.

- 301. Departmental regulations.
- 302. Delegation of authority.
- 303. Oaths to witnesses.
- 304. Subpenas.
- 305. Systematic agency review of operations.

#### **§ 301. Departmental regulations**

The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

#### **§ 302. Delegation of authority**

(a) For the purpose of this section, “agency” has the meaning given it by section 5721 of this title.

(b) In addition to the authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him—

(1) by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his agency; and

(2) by section 3702 of title 44 to authorize the publication of advertisements, notices, or proposals.

(A39)

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## SELECTED JUDICIAL REVIEW PROVISIONS OF TITLE 28, U.S.C.

### Sections 1254, 1331, 1391(e) and 2112 of Title 28, United States Code

#### § 1254. Courts of appeals; certiorari; appeal; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By appeal by a party relying on a State statute held by a court of appeals to be invalid as repugnant to the Constitution, treaties or laws of the United States, but such appeal shall preclude review by writ of certiorari at the instance of such appellant, and the review on appeal shall be restricted to the Federal questions presented;

(3) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

\* \* \* \* \*

#### § 1331. Federal question; amount in controversy; costs

(a) The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States, except that no such sum or value shall be required in any such action brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff is finally adjudged to be entitled to recover less than the sum or value of \$10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

\* \* \* \* \*

#### § 1391. Venue generally

\* \* \* \* \*

(e) A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States,

or the United States, may, except as otherwise provided by law, be brought in any judicial district in which (1) a defendant in the action resides, or (2) the cause of action arose, or (3) any real property involved in the action is situated, or (4) the plaintiff resides if no real property is involved in the action. Additional persons may be joined as parties to any such action in accordance with the Federal Rules of Civil Procedure and with such other venue requirements as would be applicable if the United States or one of its officers, employees, or agencies were not a party.

The summons and complaint in such an action shall be served as provided by the Federal Rules of Civil Procedure except that the delivery of the summons and complaint to the officer or agency as required by the rules may be made by certified mail beyond the territorial limits of the district in which the action is brought.

\* \* \* \* \*

#### **§ 2112. Record on review and enforcement of agency orders**

(a) The rules prescribed under the authority of section 2072 of this title may provide for the time and manner of filing and the contents of the record in all proceedings instituted in the courts of appeals to enjoin, set aside, suspend, modify, or otherwise review or enforce orders of administrative agencies, boards, commissions, and officers. Such rules may authorize the agency, board, commission, or officer to file in the court a certified list of the materials comprising the record and retain and hold for the court all such materials and transmit the same or any part thereof to the court, when and as required by it, at any time prior to the final determination of the proceeding, and such filing of such certified list of the materials comprising the record and such subsequent transmittal of any such materials when and as required shall be deemed full compliance with any provision of law requiring the filing of the record in the court. The record in such proceedings shall be certified and filed in or held for and transmitted to the court of appeals by the agency, board, commission, or officer concerned within the time and in the manner prescribed by such rules. If proceedings have been instituted in two or more courts of appeals with respect to the same order the agency, board, commission, or officer concerned shall file the record in that one of such courts in which a proceeding with respect to such order was first instituted. The other courts in which such proceedings are pending shall thereupon transfer them to the court of appeals in which the record has been filed. For the convenience of the parties in the interest of justice such court may thereafter transfer all the proceedings with respect to such order to any other court of appeals.

(b) The record to be filed in the court of appeals in such a proceeding shall consist of the order sought to be reviewed or enforced, the findings or report upon which it is based, and the pleadings, evidence, and proceedings before the agency, board, commission, or officer concerned, or such portions thereof (1) as the rules prescribed under the authority of section 2072 of this title may require to be included therein, or (2) as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court in any such proceeding may consistently with the rules pre-

scribed under the authority of section 2072 of this title designate to be included therein, or (3) as the court upon motion of a party or, after a prehearing conference, upon its own motion may by order in any such proceeding designate to be included therein. Such a stipulation or order may provide in an appropriate case that no record need be filed in the court of appeals. If, however, the correctness of a finding of fact by the agency, board, commission, or officer is in question all of the evidence before the agency, board, commission, or officer shall be included in the record except such as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court agree to omit as wholly immaterial to the questioned finding. If there is omitted from the record any portion of the proceedings before the agency, board, commission, or officer which the court subsequently determines to be proper for it to consider to enable it to review or enforce the order in question the court may direct that such additional portion of the proceedings be filed as a supplement to the record. The agency, board, commission, or officer concerned may, at its option and without regard to the foregoing provisions of this subsection, and if so requested by the petitioner for review or respondent in enforcement shall, file in the court the entire record of the proceedings before it without abbreviation.

(c) The agency, board, commission, or officer concerned may transmit to the court of appeals the original papers comprising the whole or any part of the record or any supplemental record, otherwise true copies of such papers certified by an authorized officer or deputy of the agency, board, commission, or officer concerned shall be transmitted. Any original papers thus transmitted to the court of appeals shall be returned to the agency, board, commission, or officer concerned upon the final determination of the review or enforcement proceeding. Pending such final determination any such papers may be returned by the court temporarily to the custody of the agency, board, commission, or officer concerned if needed for the transaction of the public business. Certified copies of any papers included in the record or any supplemental record may also be returned to the agency, board, commission, or officer concerned upon the final determination of review or enforcement proceedings.

(d) The provisions of this section are not applicable to proceedings to review decisions of the Tax Court of the United States or to proceedings to review or enforce those orders of administrative agencies, boards, commissions, or officers which are by law reviewable or enforceable by the district courts.

\* \* \* \* \*

## **Chapter 158.—ORDERS OF FEDERAL AGENCIES; REVIEW**

### **§ 2341. Definitions**

As used in this chapter—

- (1) "clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;
- (2) "petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and
- (3) "agency" means—



(A) the Commission, when the order sought to be reviewed was entered by the Federal Communications Commission, the Federal Maritime Commission, the Interstate Commerce Commission, or the Atomic Energy Commission, as the case may be;

(B) the Secretary, when the order was entered by the Secretary of Agriculture; and

(C) the Administration, when the order was entered by the Maritime Administration.

### **§ 2342. Jurisdiction of court of appeals**

The court of appeals has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of—

(1) all final orders of the Federal Communications Commission made reviewable by section 402(a) of title 47;

(2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under sections 210(e), 217a, and 499g(a) of title 7;

(3) such final orders of the Federal Maritime Commission or the Maritime Administration entered under chapters 23 and 23A of title 46 as are subject to judicial review under section 830 of title 46;

(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42; and

(5) all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title. Jurisdiction is invoked by filing a petition as provided by section 2344 of this title.

### **§ 2343. Venue**

The venue of a proceeding under this chapter is in the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

### **§ 2344. Review of orders; time; notice; contents of petition; service**

On the entry of a final order reviewable under this chapter, the agency shall promptly give notice thereof by service or publication in accordance with its rules. Any party aggrieved by the final order may, within 60 days after its entry, file a petition to review the order in the Court of Appeals wherein venue lies. The action shall be against the United States. The petition shall contain a concise statement of—

(1) the nature of the proceedings as to which review is sought;

(2) the facts on which venue is based;

(3) the grounds on which relief sought; and

(4) the relief prayed.

The petitioner shall attach to the petition, as exhibits, copies of the order, report, or decision of the agency. The clerk shall serve a true copy of the petition on the agency and on the Attorney General by registered mail, with request for a return receipt.

### **§ 2345. Prehearing conference**

The court of appeals may hold a prehearing conference or direct a judge of the court to hold a prehearing conference.

### § 2346. Certification of record on review

Unless the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk the record on review as provided by section 2112 of this title.

### § 2347. Petitions to review; proceedings

(a) Unless determined on a motion to dismiss, petitions to review orders reviewable under this chapter are heard in the court of appeals on the record of the pleadings, evidence adduced and proceedings before the agency, when the agency has held a hearing whether or not required to do so by law.

(b) When the agency has not held a hearing before taking the action of which review is sought by the petition, the court of appeals shall determine whether a hearing is required by law. After that determination, the court shall—

(1) remand the proceedings to the agency to hold a hearing, when a hearing is required by law;

(2) pass on the issues presented, when a hearing is not required by law and it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or

(3) transfer the proceedings to a district court for the district in which the petitioner resides or has its principal office for a hearing and determination as if the proceedings were originally initiated in the district court, when a hearing is not required by law and a genuine issue of material fact is presented. The procedure in these cases in the district court is governed by the Federal Rules of Civil Procedure.

(c) If a party to a proceeding to review applies to the court of appeals in which the proceeding is pending for leave to adduce additional evidence and shows to the satisfaction of the court that—

(1) the additional evidence is material; and

(2) there were reasonable grounds for failure to adduce the evidence before the agency;

the court may order the additional evidence and any counterevidence the opposite party desires to offer to be taken by the agency. The agency may modify its findings of fact, or make new findings, by reason of the additional evidence so taken, and may modify or set aside its order, and shall file in the court the additional evidence, the modified findings or new findings, and the modified order or the order setting aside the original order.

### 2348. Representation in proceeding; intervention

The Attorney General is responsible for and has control of the interests of the Government in all court proceedings under this chapter. The agency, and any party in interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended, may appear as parties thereto of their own motion and as of right, and be represented by counsel in any proceeding to review the order. Communities, associations, corporations, firms, and individuals, whose interests are affected by the order of the agency, may intervene in any proceeding to review the order. The Attorney General may not dispose of or discontinue the proceeding to review over the objection of any party or intervenor, but any intervenor may prosecute, defend, or continue the proceeding unaffected by the action or inaction of the Attorney General.

### **§ 2349. Jurisdiction of the proceeding**

(a) The court of appeals has jurisdiction of the proceeding on the filing and service of a petition to review. The court of appeals in which the record on review is filed, on the filing, has jurisdiction to vacate stay orders or interlocutory injunctions previously granted by any court, and has exclusive jurisdiction to make and enter, on the petition, evidence, and proceedings set forth in the record on review, a judgment determining the validity of, and enjoining, setting aside, or suspending, in whole or in part, the order of the agency.

(b) The filing of the petition to review does not of itself stay or suspend the operation of the order of the agency, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. When the petitioner makes application for an interlocutory injunction restraining or suspending the enforcement, operation, or execution of, or setting aside, in whole or in part, any order reviewable under this chapter, at least 5 days' notice of the hearing thereon shall be given to the agency and to the Attorney General. In a case in which irreparable damage would otherwise result to the petitioner, the court of appeals may, on hearing, after reasonable notice to the agency and to the Attorney General, order a temporary stay or suspension, in whole or in part, of the operation of the order of the agency for not more than 60 days from the date of the order pending the hearing on the application for the interlocutory injunction, in which case the order of the court of appeals shall contain a specific finding, based on evidence submitted to the court of appeals, and identified by reference thereto, that irreparable damage would result to the petitioner and specifying the nature of the damage. The court of appeals, at the time of hearing the application for an interlocutory injunction, on a like finding, may continue the temporary stay or suspension, in whole or in part, until decision on the application. The hearing on an application for an interlocutory injunction shall be given preference and expedited and shall be heard at the earliest practicable date after the expiration of the notice of hearing on the application. On the final hearing of any proceeding to review any order under this chapter, the same requirements as to precedence and expedition apply.

### **§ 2350. Review in Supreme Court on certiorari or certification**

(a) An order granting or denying an interlocutory injunction under section 2349(b) of this title and a final judgment of the court of appeals in a proceeding to review under this chapter are subject to review by the Supreme Court on a writ of certiorari as provided by section 1254(1) of this title. Application for the writ shall be made within 45 days after entry of the order and within 90 days after entry of the judgment, as the case may be. The United States, the agency, or an aggrieved party may file a petition for a writ of certiorari.

(b) The provisions of section 1254(3) of this title, regarding certification, and of section 2101(f) of this title, regarding stays, also apply to proceedings under this chapter.

### **§ 2351. Enforcement of orders by district courts**

The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain any person from violating any order issued under section 193 of title 7.



## CROSS REFERENCE TABLES

APA, Section	Title 5, Section
2	551, 701(b)(2)
3	552
4	553
5	554
6	555
7	556
8	557
9	558
10	701-706
11:	3105
1st sentence	7521
2d "	4301(2)(E), 5335(a)(B), 5362
3d "	3344
4th "	1305
5th "	559 (see also sec. 7(g) of Public Law 89-554
12	
Title 5, Section	APA, Section
551	2(a)
552	3
553	4
554	5
555	6
556	7
557	8
558	9
559	12
701	10
702	10(a)
703	10(b)
704	10(c)
705	10(d)
706	10(e)
3105	11:
3344	1st sentence
5362	4th "
7521	3d "
	2d "























**PUBLIC HEALTH SERVICE ACT:**

- Short Title (Title I)
- Administration (Title II)
- General Powers and Duties  
(Title III)
- National Research Institutes  
(Title IV)
- Miscellaneous (Title V)
- Hospital Construction (Title VI)
- Health Research and Teaching  
Facilities (Title VII)
- Nurse Training (Title VIII)
- Heart, Cancer, Stroke and Kidney  
(Title IX)
- Population Research and Family  
Planning (Title X)
- Genetic Blood Disorders (Title XI)
- Emergency Medical Services Systems  
(Title XII)
- Health Maintenance Organizations  
(Title XIII)
- Safety of Public Water Systems  
(Title XIV)
- National Health Planning and  
Development (Title XV)
- Health Resources Development  
(Title XVI)

**OTHER LAWS:**

- Mental Retardation and Mental  
Health
- Comprehensive Alcohol Abuse and  
Alcoholism Prevention, Treatment,  
and Rehabilitation Act of 1970
- Drug Abuse Office and Treatment Act  
of 1972
- Appendix

To use this index, bend the publication over and locate the desired section by following the black markers.